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36

Bill 64

Government Bill

Projet de loi 64

du gouvernement

1ST SESSION, 35TH LEG SLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 64

**An Act respecting the regulation  
of the Profession of Respiratory  
Therapy**

**The Hon. E. Gigantes**  
Minister of Health

1st Reading      April 2nd, 1991  
2nd Reading  
3rd Reading  
Royal Assent

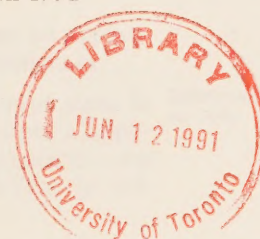
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## Projet de loi 64

**Loi concernant la réglementation  
de la profession d'inhalothérapeute**

**L'honorable E. Gigantes**  
Ministre de la Santé

1<sup>re</sup> lecture      2 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTE

The Bill provides for the regulation of the profession of respiratory therapy by the College of Respiratory Therapists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 15 restricts the use of the title "respiratory therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of respiratory therapy.

## NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'inhalothérapeute par l'Ordre des inhalothérapeutes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 15 réserve aux membres l'usage du titre de «inhalothérapeute». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'inhalothérapeute.



## An Act respecting the regulation of the Profession of Respiratory Therapy

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

“College” means the College of Respiratory Therapists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of respiratory therapy; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

2.—(1) The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Respiratory Therapists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of respiratory therapy; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

3. The practice of respiratory therapy is the providing of oxygen therapy, cardio-respiratory equipment monitoring and the assessment and treatment of cardio-respiratory and associated disorders on the order of a member of the College of Physicians and

## Loi concernant la réglementation de la profession d'inhalothérapeute

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

2 (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

3 L'exercice de la profession d'inhalothérapeute consiste dans l'application de l'oxygénothérapie, dans le monitoring des fonctions respiratoires ainsi que dans l'évaluation et le traitement des troubles cardio-respiratoires et troubles associés, sur l'ordre d'un membre de l'Ordre des médecins et chirurgiens.

Definitions

Health Professions Procedural Code

Terms in Code

Definitions in Code

Scope of practice

Définitions

Code des professions de la santé

Termes figurant dans le Code

Définitions du Code

Champ d'application



Surgeons of Ontario to maintain or restore ventilation.

Authorized  
acts

4. In the course of engaging in the practice of respiratory therapy, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Intubation beyond the opening of the nostrils or beyond the larynx on the order of a member of the College of Physicians and Surgeons of Ontario.
2. Administering a substance by injection or inhalation on the order of a member of the College of Physicians and Surgeons of Ontario.

College  
established

5. The College is established under the name College of Respiratory Therapists of Ontario in English and Ordre des thérapeutes respiratoires de l'Ontario in French.

Council

6.—(1) The Council shall be composed of,

- (a) at least eight and no more than twelve persons who are members elected in the prescribed number and manner; and
- (b) at least four and no more than six persons appointed by the Lieutenant Governor in Council who are not,
  - (i) members,
  - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
  - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can  
vote in elec-  
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President  
and Vice-  
President

7. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

Executive  
Committee

8.—(1) The Executive Committee shall be composed of,

- (a) the President and Vice-President of the Council;
- (b) two members of the Council who are members of the College; and
- (c) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

Chair

(2) The President of the Council shall be the chair of the Executive Committee.

giens de l'Ontario, en vue d'assurer ou de rétablir la ventilation.

4 Dans l'exercice de la profession d'inhalothérapeute, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autori-  
sés

1. L'intubation au-delà des narines ou du larynx sur ordonnance d'un membre de l'Ordre des médecins et chirurgiens de l'Ontario.
2. L'administration de substances par voie d'injection ou d'inhalation sur ordonnance d'un membre de l'Ordre des médecins et chirurgiens de l'Ontario.

5 L'Ordre est créé sous le nom d'Ordre des inhalothérapeutes de l'Ontario en français et sous le nom de College of Respiratory Therapists of Ontario en anglais.

Création de  
l'Ordre

6 (1) Le conseil se compose :

Conseil

- a) d'au moins huit et d'au plus douze personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins quatre et d'au plus six personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
  - (i) membres,
  - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
  - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut  
voter aux  
élections

7 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et  
vice-président

8 (1) Le bureau se compose des personnes suivantes :

Bureau

- a) le président et le vice-président du conseil;
- b) deux membres du conseil qui sont membres de l'Ordre;
- c) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

(2) Le président du conseil assume la présidence du bureau.

Président



Registration  
Committee

**9.** The Registration Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

Complaints  
Committee

**10.** The Complaints Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) one member.

Discipline  
Committee

**11.** The Discipline Committee shall be composed of,

- (a) three members of the Council who are members of the College;
- (b) two members of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Fitness to  
Practise  
Committee

**12.** The Fitness to Practise Committee shall be composed of,

- (a) two members of the Council who are members of the College; and
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council.

Quality  
Assurance  
Committee

**13.** The Quality Assurance Committee shall be composed of,

- (a) two members of the Council who are members of the College;
- (b) one member of the Council appointed to the Council by the Lieutenant Governor in Council; and
- (c) two members.

Appointment  
of members

**14.** The Council shall appoint the members of the committees mentioned in sections 8 to 13.

Restricted  
titles

**15.—(1)** No person other than a member shall use the title "respiratory therapist", a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals.

Representa-  
tions of  
qualification,  
etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a respiratory therapist or in a specialty of respiratory therapy.

**9** Le comité d'inscription se compose des personnes suivantes :

Comité d'ins-  
cription

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) un membre.

**10** Le comité des plaintes se compose des personnes suivantes :

Comité des  
plaintes

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) un membre.

**11** Le comité de discipline se compose des personnes suivantes :

Comité de  
discipline

- a) trois membres du conseil qui sont membres de l'Ordre;
- b) deux membres du conseil qui y ont été nommés par le lieutenant-gouverneur en conseil;
- c) deux membres.

**12** Le comité d'aptitude professionnelle se compose des personnes suivantes :

Comité d'ap-  
titude profes-  
sionnelle

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil.

**13** Le comité d'assurance de la qualité se compose des personnes suivantes :

Comité d'as-  
surance de la  
qualité

- a) deux membres du conseil qui sont membres de l'Ordre;
- b) un membre du conseil qui y a été nommé par le lieutenant-gouverneur en conseil;
- c) deux membres.

**14** Le conseil nomme les membres des comités visés aux articles 8 à 13.

Nomination  
des membres

**15 (1)** Nul autre qu'un membre ne doit employer le titre d'«inhalothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue, lorsqu'il donne ou propose de donner, en Ontario, des soins médicaux à des particuliers.

Titre réservé

(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'inhalothérapeute ou une spécialité de l'inhalothérapie.

Déclaration  
de compé-  
tence



Definition	(3) In this section, "abbreviation" includes an abbreviation of a variation.	(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.	Définition
Notice if suggestions referred to Advisory Council	<b>16.</b> —(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the <i>Regulated Health Professions Act, 1991</i> , as suggested, (a) amendment to this Act; (b) amendment to a regulation made by the Council; or (c) regulation to be made by the Council.	<b>16</b> (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la <i>Loi de 1991 sur les professions de la santé réglementées</i> , une proposition, selon le cas : a) de modification de la présente loi; b) de modification d'un règlement pris par le conseil; c) de règlement qui soit pris par le conseil.	Avis en cas de présentation d'une proposition au Conseil consultatif
Requirements re notice	(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.	(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.	Exigences relatives à l'avis
Offence	<b>17.</b> Every person who contravenes subsection 15 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence or not more than \$10,000 for a subsequent offence.	<b>17</b> Quiconque contrevient au paragraphe 15 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.	Infraction
Regulations	<b>18.</b> Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the College may make regulations respecting the delegation by or to members of controlled acts set out in subsection 26 (2) of the <i>Regulated Health Professions Act, 1991</i> .	<b>18</b> Sous réserve de l'approbation du lieutenant-gouverneur en conseil et après examen du ministre, l'Ordre peut, par règlement, traiter de la délégation, par des membres ou à des membres, de l'exécution d'actes autorisés visés au paragraphe 26 (2) de la <i>Loi de 1991 sur les professions de la santé réglementées</i> .	Règlements
Transition before Act in force	<b>19.</b> —(1) The Lieutenant Governor in Council may appoint a transitional Council.	<b>19</b> (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.	Transition avant l'entrée en vigueur de la Loi
Powers of transitional Council	(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.	(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.	Pouvoirs du conseil transitoire
Idem	(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.	(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.	Idem
Powers of Minister	(4) The Minister may, (a) review the transitional Council's activities and require the transitional Council to provide reports and information;	(4) Le ministre peut : a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;	Pouvoirs du ministre

	<p>(b) require the transitional Council to make, amend or revoke a regulation under this Act;</p> <p>(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the <i>Regulated Health Professions Act, 1991</i>.</p>	<p>b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;</p> <p>c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la <i>Loi de 1991 sur les professions de la santé réglementées</i>.</p>	
Transitional Council to comply with Minister's request	(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.	(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.	Obligation du conseil transitoire de satisfaire à l'exigence du ministre
Regulations	(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.	(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.	Règlements
Idem	(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.	(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.	Idem
Expenses	(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).	(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).	Frais
Transition after Act in force	<b>20.</b> —(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 6 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 6 (1) or until one year has elapsed, whichever comes first.	<b>20</b> (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 6 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 6 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.	Transition après l'entrée en vigueur de la Loi
Terms of members of transitional Council	(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.	(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.	Mandat des membres du conseil transitoire
Composition of committees	(3) Sections 8 to 13 do not apply to committees of the transitional Council.	(3) Les articles 8 à 13 ne s'appliquent pas aux comités du conseil transitoire.	Composition des comités
Commencement	<b>21.</b> —(1) This Act, except section 19, comes into force on a day to be named by proclamation of the Lieutenant Governor.	<b>21</b> (1) La présente loi, à l'exclusion de l'article 19, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 19 comes into force on the day this Act receives Royal Assent.	(2) L'article 19 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 78 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 78 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem
Short title	<b>22.</b> The short title of this Act is the <i>Respiratory Therapy Act, 1991</i> .	<b>22</b> Le titre abrégé de la présente loi est <i>Loi de 1991 sur les inhalothérapeutes</i> .	Titre abrégé





Bill 64

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Projet de loi 64

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1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 64

### An Act respecting the regulation of the Profession of Respiratory Therapy

**The Hon. F. Lankin**  
Minister of Health

## Projet de loi 64

### Loi concernant la réglementation de la profession d'inhalothérapeute

**L'honorable F. Lankin**  
Ministre de la Santé



1st Reading April 2nd, 1991

2nd Reading May 29th, 1991

3rd Reading

Royal Assent

*(Reprinted as amended by the Social Development  
Committee)*

1<sup>re</sup> lecture 2 avril 1991

2<sup>e</sup> lecture 29 mai 1991

3<sup>e</sup> lecture

sanction royale

*(Réimprimé tel qu'il est modifié par le Comité des  
affaires sociales)*



## EXPLANATORY NOTE

The Bill provides for the regulation of the profession of respiratory therapy by the College of Respiratory Therapists of Ontario which is established. The Health Professions Procedural Code, which contains the main procedural provisions applicable in regulating the profession, is deemed to be part of the Bill in subsection 2 (1). Section 4 sets out the controlled acts that members of the College are authorized to perform. Section 9 restricts the use of the title "respiratory therapist" to members. The remainder of the Bill relates to the internal working of the College and the regulation of the profession of respiratory therapy.

## NOTE EXPLICATIVE

Le projet de loi prévoit la réglementation de la profession d'inhalothérapeute par l'Ordre des inhalothérapeutes de l'Ontario qui est créé. Le Code des professions de la santé, qui comprend les principales dispositions de procédure qui s'appliquent à la réglementation de la profession, est réputé, au paragraphe 2 (1), faire partie du projet de loi. L'article 4 énonce les actes autorisés que les membres de l'Ordre peuvent accomplir. L'article 9 réserve aux membres l'usage du titre d'«inhalothérapeute». Le reste du projet de loi a trait au fonctionnement interne de l'Ordre et à la réglementation de la profession d'inhalothérapeute.

## An Act respecting the regulation of the Profession of Respiratory Therapy

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

**1.** In this Act,

“College” means the College of Respiratory Therapists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of respiratory therapy; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

Health Professions  
Procedural  
Code

**2.—(1)** The Health Professions Procedural Code shall be deemed to be part of this Act.

Terms in  
Code

**(2)** In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Respiratory Therapists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of respiratory therapy; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

Definitions  
in Code

**(3)** Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

Scope of  
practice

**3.** The practice of respiratory therapy is the providing of oxygen therapy, cardio-respiratory equipment monitoring and the assessment and treatment of cardio-respiratory and associated disorders to maintain or restore ventilation.

## Loi concernant la réglementation de la profession d'inhalothérapeute

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Définitions

**1** Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

**2 (1)** Le Code des professions de la santé est réputé faire partie de la présente loi.

Code des  
professions de  
la santé

**(2)** Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

Termes figu-  
rant dans le  
Code

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

**(3)** Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

Définitions  
du Code

**3** L'exercice de la profession d'inhalothérapeute consiste dans l'application de l'oxygénothérapie, dans le monitoring des fonctions respiratoires ainsi que dans l'évaluation et le traitement des troubles cardio-respira-

Champ d'ap-  
plication



Authorized  
acts

4. In the course of engaging in the practice of respiratory therapy, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Performing a prescribed procedure below the dermis.
2. Intubation beyond the point in the nasal passages where they normally narrow or beyond the larynx.
3. Suctioning beyond the point in the nasal passages where they normally narrow or beyond the larynx.
4. Administering a substance by injection or inhalation.

Additional  
requirements  
for autho-  
rized acts

5.—(1) A member shall not perform a procedure under the authority of paragraph 1, 2 or 4 of section 4 unless the procedure is ordered by a member of the College of Physicians and Surgeons of Ontario.

Grounds for  
misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

College  
established

6. The College is established under the name College of Respiratory Therapists of Ontario in English and Ordre des thérapeutes respiratoires de l'Ontario in French.

Council

7.—(1) The Council shall be composed of,

- (a) at least seven and no more than ten persons who are members elected in the prescribed number and manner; and
- (b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,
  - (i) members,
  - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
  - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can  
vote in elec-  
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President  
and Vice-  
President

8. The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

toires et troubles associés en vue d'assurer ou de rétablir la ventilation.

Actes autori-  
sés

4 Dans l'exercice de la profession d'inhalothérapeute, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

1. Pratiquer sous le derme les interventions prescrites.
2. Pratiquer des intubations au-delà du point de rétrécissement normal des fosses nasales ou au-delà du larynx.
3. Pratiquer des aspirations au-delà du point de rétrécissement normal des fosses nasales ou au-delà du larynx.
4. Administrer des substances par voie d'injection ou d'inhalation.

Exigences  
supplémentai-  
res relatives  
aux actes  
autorisés

5 (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de la disposition 1, 2 ou 4 de l'article 4 à moins qu'un membre de l'Ordre des médecins et chirurgiens de l'Ontario ne l'ordonne.

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Motifs per-  
mettant de  
conclure à  
une faute  
profession-  
nelle

6 L'Ordre est créé sous le nom d'Ordre des inhalothérapeutes de l'Ontario en français et sous le nom de College of Respiratory Therapists of Ontario en anglais.

Création de  
l'Ordre

7 (1) Le conseil se compose :

Conseil

- a) d'au moins sept et d'au plus dix personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
  - (i) membres,
  - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
  - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut  
voter aux  
élections

8 Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et  
vice-président

Restricted titles

**9.**—(1) No person other than a member shall use the title “respiratory therapist”, a variation or abbreviation or an equivalent in another language.

Representations of qualification, etc.

(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a respiratory therapist or in a specialty of respiratory therapy.

Definition

(3) In this section, “abbreviation” includes an abbreviation of a variation.

Notice if suggestions referred to Advisory Council

**10.**—(1) The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the *Regulated Health Professions Act, 1991*, a suggested,

- (a) amendment to this Act;
- (b) amendment to a regulation made by the Council; or
- (c) regulation to be made by the Council.

Requirements re notice

(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister’s notice of the suggestion.

Offence

**11.** Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.

Transition before Act in force

**12.**—(1) The Lieutenant Governor in Council may appoint a transitional Council.

Powers of transitional Council

(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.

Idem

(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council’s committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.

Powers of Minister

(4) The Minister may,

**9** (1) Nul autre qu’un membre ne doit employer le titre d’«inhalothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue.

Titre réservé

(2) Nul autre qu’un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d’inhalothérapeute, ou une spécialité de l’inhalothérapie.

Déclaration de compétence

(3) Dans le présent article, le terme «abréviation» s’entend en outre de l’abréviation d’une variante.

Définition

**10** (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*, une proposition, selon le cas :

Avis en cas de présentation d’une proposition au Conseil consultatif

- a) de modification de la présente loi;
- b) de modification d’un règlement pris par le conseil;
- c) de règlement qui soit pris par le conseil.

(2) L’avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l’Ordre, de l’avis de proposition du ministre.

Exigences relatives à l’avis

**11** Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d’une infraction et passible, sur déclaration de culpabilité, d’une amende d’au plus 5 000 \$ pour une première infraction, et d’une amende d’au plus 10 000 \$ pour une infraction subséquente.

Infraction

**12** (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.

Transition avant l’entrée en vigueur de la Loi

(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l’entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.

Pouvoirs du conseil transitoire

(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d’inscription, imposer les droits relatifs aux demandes et délivrer les certificats d’inscription.

Idem

(4) Le ministre peut :

Pouvoirs du ministre



- (a) review the transitional Council's activities and require the transitional Council to provide reports and information;
- (b) require the transitional Council to make, amend or revoke a regulation under this Act;
- (c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the *Regulated Health Professions Act, 1991*.

Transitional Council to comply with Minister's request

(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.

Regulations

(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.

Idem

(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.

Expenses

(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).

Transition after Act in force

**13.**—(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.

Terms of members of transitional Council

(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.

Commencement

**14.**—(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 12 comes into force on the day this Act receives Royal Assent.

Idem

(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.

- a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci qu'il fournisse des rapports et des renseignements;
- b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;
- c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la *Loi de 1991 sur les professions de la santé réglementées*.

(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.

Obligation du conseil transitoire de satisfaire à l'exigence du ministre

(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.

Règlements

(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.

Idem

(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).

Frais

**13** (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.

Transition après l'entrée en vigueur de la Loi

(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.

Mandat des membres du conseil transitoire

**14** (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.

Idem

(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.

Idem

Idem

↓  
(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force. ↑

Short title

**15.** The short title of this Act is the *Respiratory Therapy Act, 1991*.

↓

(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi. ↑

Idem

**15** Le titre abrégé de la présente loi est *Loi de 1991 sur les inhalothérapeutes*.

Titre abrégé





**Bill 64**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 64**

*(Chapter 39  
Statutes of Ontario, 1991)*

**An Act respecting the regulation  
of the Profession of Respiratory  
Therapy**

**The Hon. F. Lankin**  
Minister of Health

1st Reading	April 2nd, 1991
2nd Reading	May 29th, 1991
3rd Reading	November 21st, 1991
Royal Assent	November 25th, 1991

**Projet de loi 64**

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Projet de loi 64**

*(Chapitre 39  
Lois de l'Ontario de 1991)*

**Loi concernant la réglementation  
de la profession d'inhalothérapeute**

**L'honorable F. Lankin**  
Ministre de la Santé



1 <sup>re</sup> lecture	2 avril 1991
2 <sup>e</sup> lecture	29 mai 1991
3 <sup>e</sup> lecture	21 novembre 1991
sanction royale	25 novembre 1991





## An Act respecting the regulation of the Profession of Respiratory Therapy

## Loi concernant la réglementation de la profession d'inhalothérapeute

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Definitions

**1.** In this Act,

“College” means the College of Respiratory Therapists of Ontario; (“Ordre”)

“Health Professions Procedural Code” means the Health Professions Procedural Code set out in Schedule 2 to the *Regulated Health Professions Act, 1991*; (“Code des professions de la santé”)

“member” means a member of the College; (“membre”)

“profession” means the profession of respiratory therapy; (“profession”)

“this Act” includes the Health Professions Procedural Code. (“la présente loi”)

**2.—(1)** The Health Professions Procedural Code shall be deemed to be part of this Act.

(2) In the Health Professions Procedural Code as it applies in respect of this Act,

“College” means the College of Respiratory Therapists of Ontario; (“ordre”)

“health profession Act” means this Act; (“loi sur une profession de la santé”)

“profession” means the profession of respiratory therapy; (“profession”)

“regulations” means the regulations under this Act. (“règlements”)

(3) Definitions in the Health Professions Procedural Code apply with necessary modifications to terms in this Act.

**3.** The practice of respiratory therapy is the providing of oxygen therapy, cardio-respiratory equipment monitoring and the assessment and treatment of cardio-respiratory and associated disorders to maintain or restore ventilation.

Health Professions  
Procedural  
CodeTerms in  
CodeDefinitions  
in CodeScope of  
practice

**1** Les définitions qui suivent s'appliquent à la présente loi.

«Code des professions de la santé» Le Code des professions de la santé figurant à l'annexe 2 de la *Loi de 1991 sur les professions de la santé réglementées*. («Health Professions Procedural Code»)

«la présente loi» S'entend en outre du Code des professions de la santé. («this Act»)

«membre» Membre de l'Ordre. («member»)

«Ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

**2** (1) Le Code des professions de la santé est réputé faire partie de la présente loi.

(2) Dans la mesure où le Code des professions de la santé s'applique à la présente loi, les termes suivants qui y figurent s'interprètent comme suit :

«loi sur une profession de la santé» La présente loi. («health profession Act»)

«ordre» L'Ordre des inhalothérapeutes de l'Ontario. («College»)

«profession» La profession d'inhalothérapeute. («profession»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

(3) Les définitions qui figurent dans le Code des professions de la santé s'appliquent, avec les adaptations nécessaires, aux termes correspondants figurant dans la présente loi.

**3** L'exercice de la profession d'inhalothérapeute consiste dans l'application de l'oxygénothérapie, dans le monitoring des fonctions respiratoires ainsi que dans l'évaluation et le traitement des troubles cardio-respira-

Définitions

Code des  
professions de  
la santéTermes figu-  
rant dans le  
CodeDéfinitions  
du CodeChamp d'ap-  
plication



Authorized  
acts

**4.** In the course of engaging in the practice of respiratory therapy, a member is authorized, subject to the terms, conditions and limitations imposed on his or her certificate of registration, to perform the following:

1. Performing a prescribed procedure below the dermis.
2. Intubation beyond the point in the nasal passages where they normally narrow or beyond the larynx.
3. Suctioning beyond the point in the nasal passages where they normally narrow or beyond the larynx.
4. Administering a substance by injection or inhalation.

Additional  
requirements  
for autho-  
rized acts

**5.—(1)** A member shall not perform a procedure under the authority of paragraph 1, 2 or 4 of section 4 unless the procedure is ordered by a member of the College of Physicians and Surgeons of Ontario.

Grounds for  
misconduct

(2) In addition to the grounds set out in subsection 51 (1) of the Health Professions Procedural Code, a panel of the Discipline Committee shall find that a member has committed an act of professional misconduct if the member contravenes subsection (1).

College  
established

**6.** The College is established under the name College of Respiratory Therapists of Ontario in English and Ordre des thérapeutes respiratoires de l'Ontario in French.

Council

**7.—(1)** The Council shall be composed of,

- (a) at least seven and no more than ten persons who are members elected in the prescribed number and manner; and
- (b) at least five and no more than eight persons appointed by the Lieutenant Governor in Council who are not,
  - (i) members,
  - (ii) members of a College as defined in the *Regulated Health Professions Act, 1991*, or
  - (iii) members of a Council as defined in the *Regulated Health Professions Act, 1991*.

Who can  
vote in elec-  
tions

(2) Subject to the regulations, every member who practises or resides in Ontario and who is not in default of payment of the annual membership fee is entitled to vote in an election of members of the Council.

President  
and Vice-  
President

**8.** The Council shall have a President and Vice-President who shall be elected annually by the Council from among the Council's members.

toires et troubles associés en vue d'assurer ou de rétablir la ventilation.

**4** Dans l'exercice de la profession d'inhalothérapeute, un membre est autorisé, sous réserve des conditions et restrictions dont est assorti son certificat d'inscription, à accomplir les actes suivants :

Actes autori-  
sés

1. Pratiquer sous le derme les interventions prescrites.
2. Pratiquer des intubations au-delà du point de rétrécissement normal des fosses nasales ou au-delà du larynx.
3. Pratiquer des aspirations au-delà du point de rétrécissement normal des fosses nasales ou au-delà du larynx.
4. Administrer des substances par voie d'injection ou d'inhalation.

**5** (1) Le membre ne doit pas accomplir d'actes autorisés en vertu de la disposition 1, 2 ou 4 de l'article 4 à moins qu'un membre de l'Ordre des médecins et chirurgiens de l'Ontario ne l'ordonne.

Exigences  
supplémentai-  
res relatives  
aux actes  
autorisés

(2) Un sous-comité du comité de discipline conclut qu'un membre a commis une faute professionnelle non seulement d'après les motifs énoncés au paragraphe 51 (1) du Code des professions de la santé, mais également si le membre contrevient au paragraphe (1).

Motifs per-  
mettant de  
conclure à  
une faute  
profession-  
nelle

**6** L'Ordre est créé sous le nom d'Ordre des inhalothérapeutes de l'Ontario en français et sous le nom de College of Respiratory Therapists of Ontario en anglais.

Création de  
l'Ordre

**7** (1) Le conseil se compose :

Conseil

- a) d'au moins sept et d'au plus dix personnes qui sont membres et qui sont élues de la manière prescrite et selon le nombre prescrit;
- b) d'au moins cinq et d'au plus huit personnes que nomme le lieutenant-gouverneur en conseil et qui ne sont pas :
  - (i) membres,
  - (ii) membres d'un ordre, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*,
  - (iii) membres d'un conseil, tel que le définit la *Loi de 1991 sur les professions de la santé réglementées*.

(2) Sous réserve des règlements, chaque membre qui exerce sa profession ou réside en Ontario et qui a payé sa cotisation annuelle a droit de vote lors d'une élection des membres du conseil.

Qui peut  
voter aux  
élections

**8** Le conseil comprend un président et un vice-président qui, chaque année, sont choisis parmi les membres du conseil et élus par ce dernier.

Président et  
vice-président

Restricted titles	<b>9.—(1)</b> No person other than a member shall use the title “respiratory therapist”, a variation or abbreviation or an equivalent in another language.	<b>9</b> (1) Nul autre qu'un membre ne doit employer le titre d'«inhalothérapeute», une variante ou une abréviation, ou un équivalent dans une autre langue.	Titre réservé
Representations of qualification, etc.	(2) No person other than a member shall hold himself or herself out as a person who is qualified to practise in Ontario as a respiratory therapist or in a specialty of respiratory therapy.	(2) Nul autre qu'un membre ne doit se présenter comme une personne ayant qualité pour exercer en Ontario la profession d'inhalothérapeute, ou une spécialité de l'inhalothérapie.	Déclaration de compétence
Definition	(3) In this section, “abbreviation” includes an abbreviation of a variation.	(3) Dans le présent article, le terme «abréviation» s'entend en outre de l'abréviation d'une variante.	Définition
Notice if suggestions referred to Advisory Council	<b>10.—(1)</b> The Registrar shall give a notice to each member if the Minister refers to the Advisory Council, as defined in the <i>Regulated Health Professions Act, 1991</i> , a suggested,	<b>10</b> (1) Le registrateur remet un avis à chaque membre si le ministre soumet au Conseil consultatif, tel que le définit la <i>Loi de 1991 sur les professions de la santé réglementées</i> , une proposition, selon le cas :	Avis en cas de présentation d'une proposition au Conseil consultatif
	(a) amendment to this Act;	a) de modification de la présente loi;	
	(b) amendment to a regulation made by the Council; or	b) de modification d'un règlement pris par le conseil;	
	(c) regulation to be made by the Council.	c) de règlement qui soit pris par le conseil.	
Requirements re notice	(2) A notice mentioned in subsection (1) shall set out the suggestion referred to the Advisory Council and the notice shall be given within thirty days after the Council of the College receives the Minister's notice of the suggestion.	(2) L'avis visé au paragraphe (1) énonce la proposition soumise au Conseil consultatif et est donné dans les trente jours qui suivent la réception, par le conseil de l'Ordre, de l'avis de proposition du ministre.	Exigences relatives à l'avis
Offence	<b>11.</b> Every person who contravenes subsection 9 (1) or (2) is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 for a first offence and not more than \$10,000 for a subsequent offence.	<b>11</b> Quiconque contrevient au paragraphe 9 (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ pour une première infraction, et d'une amende d'au plus 10 000 \$ pour une infraction subséquente.	Infraction
Transition before Act in force	<b>12.—(1)</b> The Lieutenant Governor in Council may appoint a transitional Council.	<b>12</b> (1) Le lieutenant-gouverneur en conseil peut constituer un conseil transitoire.	Transition avant l'entrée en vigueur de la Loi
Powers of transitional Council	(2) After this Act receives Royal Assent but before it comes into force, the transitional Council and its employees and committees may do anything that is necessary or advisable for the coming into force of this Act and that the Council and its employees and committees could do under this Act if it were in force.	(2) Après que la présente loi reçoit la sanction royale mais avant son entrée en vigueur, le conseil transitoire, ses employés et ses comités peuvent faire tout ce qui est nécessaire ou souhaitable en prévision de l'entrée en vigueur de la présente loi et tout ce que le conseil, ses employés et ses comités pourraient faire en vertu de la présente loi si elle était en vigueur.	Pouvoirs du conseil transitoire
Idem	(3) Without limiting the generality of subsection (2), the transitional Council may appoint a Registrar and the Registrar and the Council's committees may accept and process applications for the issue of certificates of registration, charge application fees and issue certificates of registration.	(3) Sans préjudice de la portée générale du paragraphe (2), le conseil transitoire peut nommer un registrateur, et ce dernier ainsi que les comités du conseil peuvent recevoir et traiter les demandes de délivrance de certificat d'inscription, imposer les droits relatifs aux demandes et délivrer les certificats d'inscription.	Idem
Powers of Minister	(4) The Minister may,	(4) Le ministre peut :	Pouvoirs du ministre
	(a) review the transitional Council's activities and require the transitional Council to provide reports and information;	a) exercer un contrôle sur les activités du conseil transitoire et exiger de celui-ci	



		qu'il fournisse des rapports et des renseignements;	
	(b) require the transitional Council to make, amend or revoke a regulation under this Act;	b) exiger du conseil transitoire qu'il prenne, modifie ou abroge un règlement aux termes de la présente loi;	
	(c) require the transitional Council to do anything that, in the opinion of the Minister, is necessary or advisable to carry out the intent of this Act and the <i>Regulated Health Professions Act, 1991</i> .	c) exiger du conseil transitoire qu'il fasse tout ce qui est nécessaire ou souhaitable, de l'avis du ministre, pour réaliser l'intention de la présente loi et de la <i>Loi de 1991 sur les professions de la santé réglementées</i> .	
Transitional Council to comply with Minister's request	(5) If the Minister requires the transitional Council to do anything under subsection (4), the transitional Council shall, within the time and in the manner specified by the Minister, comply with the requirement and submit a report.	(5) Si le ministre exige du conseil transitoire qu'il prenne l'une ou l'autre mesure prévue au paragraphe (4), le conseil transitoire doit, dans le délai et de la manière précisés par le ministre, satisfaire à l'exigence et présenter un rapport.	Obligation du conseil transitoire de satisfaire à l'exigence du ministre
Regulations	(6) If the Minister requires the transitional Council to make, amend or revoke a regulation under clause (4) (b) and the transitional Council does not do so within sixty days, the Lieutenant Governor in Council may make, amend or revoke the regulation.	(6) Si le ministre exige du conseil transitoire qu'il prenne, modifie ou abroge un règlement en vertu de l'alinéa (4) b) et que le conseil transitoire n'obtempère pas dans les soixante jours, le lieutenant-gouverneur en conseil peut prendre, modifier ou abroger le règlement.	Règlements
Idem	(7) Subsection (6) does not give the Lieutenant Governor in Council authority to do anything that the transitional Council does not have authority to do.	(7) Le paragraphe (6) n'a pas pour effet d'autoriser le lieutenant-gouverneur en conseil à faire quoi que ce soit que le conseil transitoire n'est pas habilité à faire.	Idem
Expenses	(8) The Minister may pay the transitional Council for expenses incurred in complying with a requirement under subsection (4).	(8) Le ministre peut rembourser le conseil transitoire des frais engagés pour satisfaire à une exigence prévue au paragraphe (4).	Frais
Transition after Act in force	<b>13.</b> —(1) After this Act comes into force, the transitional Council shall be the Council of the College if it is constituted in accordance with subsection 7 (1) or, if it is not, it shall be deemed to be the Council of the College until a new Council is constituted in accordance with subsection 7 (1) or until one year has elapsed, whichever comes first.	<b>13</b> (1) Après l'entrée en vigueur de la présente loi, le conseil transitoire devient le conseil de l'Ordre s'il est constitué conformément au paragraphe 7 (1). S'il ne l'est pas, il est réputé le conseil de l'Ordre jusqu'à ce qu'un nouveau conseil soit constitué conformément au paragraphe 7 (1) ou jusqu'à ce qu'un an se soit écoulé, selon la première de ces deux éventualités.	Transition après l'entrée en vigueur de la Loi
Terms of members of transitional Council	(2) The term of a member of the transitional Council shall not expire while the transitional Council is deemed to be the Council of the College.	(2) Le mandat des membres du conseil transitoire n'expire pas tant que le conseil transitoire est réputé le conseil de l'Ordre.	Mandat des membres du conseil transitoire
Commencement	<b>14.</b> —(1) This Act, except section 12, comes into force on a day to be named by proclamation of the Lieutenant Governor.	<b>14</b> (1) La présente loi, à l'exclusion de l'article 12, entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Idem	(2) Section 12 comes into force on the day this Act receives Royal Assent.	(2) L'article 12 entre en vigueur le jour où la présente loi reçoit la sanction royale.	Idem
Idem	(3) Despite subsection (1), section 80 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until three years after this Act comes into force.	(3) Malgré le paragraphe (1), l'article 80 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur que trois ans après l'entrée en vigueur de la présente loi.	Idem
Idem	(4) Despite subsection (1), section 84 of the Health Professions Procedural Code, as it applies in respect of this Act, does not come into force until one year after this Act comes into force.	(4) Malgré le paragraphe (1), l'article 84 du Code des professions de la santé, dans la mesure où il s'applique à la présente loi, n'entre en vigueur qu'un an après l'entrée en vigueur de la présente loi.	Idem

Short title

**15.** The short title of this Act is the *Respiratory Therapy Act, 1991*.

**15** Le titre abrégé de la présente loi est *Loi de 1991 sur les inhalothérapeutes*.

Titre abrégé





Bill 65

Private Member's Bill

Projet de loi 65

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 65

**An Act to amend the  
Election Act, 1984**

**Mr. Mills**

1st Reading      April 3rd, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 65

**Loi portant modification de la  
Loi électorale de 1984**

**M. Mills**

1<sup>re</sup> lecture      3 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale





#### EXPLANATORY NOTE

The purpose of the Bill is to allow the indication of a candidate's political party on ballots used in provincial elections.

#### NOTE EXPLICATIVE

Le projet de loi a pour objet de permettre l'indication du parti politique auquel appartiennent les candidats sur les bulletins de vote utilisés lors d'élections provinciales.

## An Act to amend the Election Act, 1984

## Loi portant modification de la Loi électorale de 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 27 of the *Election Act, 1984* is amended by adding the following subsection:

Registered  
party candi-  
dates

(4a) A candidate of a registered party who wishes the party's name to appear on the ballot may file with the nomination paper a written statement signed by the party's leader confirming that he or she is the party's candidate.

**2.—(1)** Subsection 34 (2) of the Act is amended by adding at the beginning "Subject to subsection (2a)".

**(2)** Section 34 of the Act is amended by adding the following subsection:

Idem

(2a) If a candidate is the candidate of a registered party and has filed a statement under subsection 27 (4a), the party name or abbreviation appearing in the register of parties under the *Election Finances Act, 1986* shall be shown in lower-case letters on the ballot under his or her name.

**3.** This Act comes into force on the day it receives Royal Assent.

**4.** The short title of this Act is the *Election Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'article 27 de la loi intitulée *Election Act, 1984* («*Loi électorale de 1984*») est modifié par adjonction du paragraphe suivant :

**2 (1)** Le paragraphe 34 (2) de la Loi est modifié par insertion, au début du paragraphe, des mots «Subject to subsection (2a)».

**(2)** L'article 34 de la Loi est modifié par adjonction du paragraphe suivant :

**3** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi électorale*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé





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1991

<b>Bill 66</b>	<b>Government Bill</b>	<b>Projet de loi 66</b>	<b>du gouvernement</b>
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1ST SESSION, 35TH LEGISLATURE, ONTARIO 40 ELIZABETH II, 1991	1 <sup>re</sup> SESSION, 35 <sup>e</sup> LÉGISLATURE, ONTARIO 40 ELIZABETH II, 1991
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# Bill 66

**An Act to amend the  
Police Services Act, 1990**

**The Hon. H. Hampton**  
Attorney General

1st Reading     April 4th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

# Projet de loi 66

**Loi portant modification de la  
Loi de 1990 sur les services policiers**

**L'honorable H. Hampton**  
Procureur général

1<sup>re</sup> lecture     4 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The Bill confirms that members of boards of inquiry constituted under the *Metropolitan Toronto Police Force Complaints Act, 1984* before its repeal will continue to sit as members of those boards until their work is completed. The Bill amends only the English version of the *Police Services Act, 1990*. The Legislature has not yet adopted an official French language version of the Act.

#### NOTE EXPLICATIVE

Le projet de loi confirme que les membres de commissions d'enquête constituées en vertu de la loi intitulée *Metropolitan Toronto Police Force Complaints Act, 1984* («*Loi de 1984 sur les plaintes concernant la police de la communauté urbaine de Toronto*») avant son abrogation continueront de siéger à ce titre jusqu'à ce que leur travail soit terminé. Le projet de loi ne modifie que la version anglaise de la loi intitulée *Police Services Act, 1990* («*Loi de 1990 sur les services policiers*»), la Législature n'ayant pas encore adopté de version française officielle de la Loi.

**An Act to amend the  
Police Services Act, 1990**

**Loi portant modification de la  
Loi de 1990 sur les services policiers**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 112 (1) of the *Police Services Act, 1990* is amended by striking out “subsection (2)” in the first line and substituting “this section”.

**(2)** Section 112 of the Act is amended by adding the following subsection:

Transition,  
boards of  
inquiry

**(3)** Members of boards of inquiry constituted under the former Act before the 31st day of December, 1990 are continued in office for the purpose of completing the work of the boards to which they were assigned.

**2.** This Act shall be deemed to have come into force on the 31st day of December, 1990.

**3.** The short title of this Act is the *Police Services Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 112 (1) de la loi intitulée *Police Services Act, 1990* («*Loi de 1990 sur les services policiers*») est modifié par substitution, aux mots «subsection (2)» à la première ligne, des mots «this section».

**(2)** L'article 112 de la Loi est modifié par adjonction du paragraphe suivant :

**2** La présente loi est réputée être entrée en vigueur le 31 décembre 1990.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les services policiers*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé





B  
56

Bill 66

Projet de loi 66

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 66**

*(Chapter 12  
Statutes of Ontario, 1991)*

**An Act to amend the  
Police Services Act, 1990**

**The Hon. H. Hampton**  
Attorney General

**Projet de loi 66**

*(Chapitre 12  
Lois de l'Ontario de 1991)*

**Loi portant modification de la  
Loi de 1990 sur les services policiers**

**L'honorable H. Hampton**  
Procureur général



1st Reading     April 4th, 1991  
2nd Reading     June 12th, 1991  
3rd Reading     June 19th, 1991  
Royal Assent     June 27th, 1991

1<sup>re</sup> lecture     4 avril 1991  
2<sup>e</sup> lecture     12 juin 1991  
3<sup>e</sup> lecture     19 juin 1991  
sanction royale     27 juin 1991





**An Act to amend the  
Police Services Act, 1990**

**Loi portant modification de la  
Loi de 1990 sur les services policiers**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 112 (1) of the *Police Services Act, 1990* is amended by striking out “subsection (2)” in the first line and substituting “this section”.

(2) Section 112 of the Act is amended by adding the following subsection:

Transition,  
boards of  
inquiry

(3) Members of boards of inquiry constituted under the former Act before the 31st day of December, 1990 are continued in office for the purpose of completing the work of the boards to which they were assigned.

**2.** This Act shall be deemed to have come into force on the 31st day of December, 1990.

**3.** The short title of this Act is the *Police Services Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 112 (1) de la loi intitulée *Police Services Act, 1990* («*Loi de 1990 sur les services policiers*») est modifié par substitution, aux mots «subsection (2)» à la première ligne, des mots «this section».

(2) L'article 112 de la Loi est modifié par adjonction du paragraphe suivant :

**2** La présente loi est réputée être entrée en vigueur le 31 décembre 1990.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les services policiers*.

Entrée en  
vigueur

Titre abrégé

Commence-  
ment

Short title



1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 67

### An Act respecting Electrical Wiring Systems

Mr. Jordan

1st Reading     April 4th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 67

### Loi concernant les installations électriques

M. Jordan

1<sup>re</sup> lecture     4 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale





#### EXPLANATORY NOTE

The Bill would prohibit persons from performing work on an electrical wiring system unless they hold a certificate of qualification as an electrician or perform the work under the supervision of someone who does hold a certificate. Persons who apply to Ontario Hydro for an inspection of work performed on an electrical wiring system would be required to indicate the certificate of qualification number of the person who carried out or supervised the work on the application, and would not be entitled to an inspection unless this was done.

#### NOTE EXPLICATIVE

Le projet de loi interdit aux personnes d'effectuer des travaux sur des installations électriques à moins d'être titulaires d'un certificat de qualification professionnelle à titre d'électricien ou d'être sous la surveillance d'un titulaire d'un tel certificat. Les personnes qui présentent à Ontario Hydro une demande d'inspection de travaux effectués sur des installations électriques sont tenues d'indiquer sur la demande le numéro du certificat de qualification professionnelle de la personne qui a procédé aux travaux ou en a surveillé l'exécution. Les personnes ne peuvent obtenir d'inspection tant que cette condition n'est pas remplie.

## An Act respecting Electrical Wiring Systems

## Loi concernant les installations électriques

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Prohibition

**1.** A person who does not hold a certificate of qualification in the trade of electrician under the *Apprenticeship and Tradesmen's Qualification Act* shall not install, replace, add to or alter an electrical wiring system except under the supervision of a holder of a certificate of qualification.

Interdiction

**1** Quiconque n'est pas titulaire d'un certificat de qualification professionnelle pour le métier d'électricien délivré aux termes de la loi intitulée *Apprenticeship and Tradesmen's Qualification Act* («*Loi sur l'apprentissage et la qualification professionnelle des gens de métier*») ne peut poser, remplacer, prolonger ou modifier une installation électrique à moins que ce ne soit fait sous la surveillance du titulaire d'un tel certificat.

Inspection applications

**2.—(1)** A person who applies to Ontario Hydro for an inspection of an installation or replacement of, or addition or alteration to, an electrical wiring system shall indicate on the application the certificate of qualification number of the person who carried out or supervised the installation, replacement, addition or alteration.

Demandes d'inspection

**2 (1)** Quiconque présente à Ontario Hydro une demande d'inspection d'une installation électrique, qu'il s'agisse de la pose, du remplacement, du prolongement ou de la modification de celle-ci, indique sur la demande le numéro du certificat de qualification professionnelle de la personne qui a procédé à la pose, au remplacement, au prolongement ou à la modification de l'installation, ou qui en a surveillé l'exécution.

No entitlement to inspection

**(2)** A person who fails to comply with subsection (1) is not entitled to an inspection unless the application is amended to indicate the certificate number.

Inspection non accordée

**(2)** La personne qui omet de se conformer au paragraphe (1) ne peut obtenir d'inspection à moins que sa demande ne soit modifiée de façon à indiquer le numéro du certificat.

Offence

**3.** A person who contravenes section 1 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Infraction

**3** Quiconque contrevient à l'article 1 est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende maximale de 2 000 \$.

Commencement

**4.** This Act comes into force on the day it receives Royal Assent.

Entrée en vigueur

**4** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Short title

**5.** The short title of this Act is the *Electrical Wiring Systems Act, 1991*.

Titre abrégé

**5** Le titre abrégé de la présente loi est *Loi de 1991 sur les installations électriques*.





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B56

Bill 68	Private Member's Bill	Projet de loi 68	de député
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1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 68

**An Act to amend the  
Workers' Compensation Act**

**Mr. Wessenger**

1st Reading     April 8th, 1991  
2nd Reading  
3rd Reading  
Royal Assent



## Projet de loi 68

**Loi portant modification de la  
Loi sur les accidents du travail**

**M. Wessenger**

1<sup>re</sup> lecture     8 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The Bill would amend the Act by creating a rebuttable presumption in the case of health care workers who contract a blood borne disease and who handled or came into contact with human bodily fluids in the course of their employment that the disease was due to the nature of their employment.

The Bill amends only the English version of the *Workers' Compensation Act*. The Legislature has not yet adopted an official French language of this Act.

#### NOTE EXPLICATIVE

Le projet de loi vise à modifier la *Loi sur les accidents du travail* en introduisant, dans le cas des travailleurs de la santé qui contractent une maladie à diffusion hématogène et qui ont manipulé des liquides organiques du corps humain ou qui sont entrés en contact avec de tels liquides dans le cadre de leur emploi, une présomption réfutable selon laquelle la maladie est due à la nature de leur emploi.

Le projet de loi ne modifie que la version anglaise de la *Loi sur les accidents du travail* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

## An Act to amend the Workers' Compensation Act

## Loi portant modification de la Loi sur les accidents du travail

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 122 of the *Workers' Compensation Act*, as amended by the Statutes of Ontario, 1984, chapter 58, sections 4 and 34, 1985, chapter 17, section 4 and 1989, chapter 47, section 26, is further amended by adding the following subsections:

Idem

(9b) If the worker contracted a blood borne disease and at or before the date of the disablement was employed in or by a hospital, clinic, treatment centre, medical or dental office, school of medicine or nursing, sanitarium, convalescent or nursing home, home for the aged, medical laboratory, visiting nursing service, ambulance service or any similar institution, facility or service, in any process in which he or she handled or came into contact with human bodily fluids, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved.

Definition

(9c) In subsection (9b), "blood borne disease" means arboviral infection, acquired immune deficiency syndrome, babesiosis, brucellosis, Creutzfeldt-Jakob disease, cytomegalovirus infection, hepatitis B, human immunodeficiency virus, human T-lymphotropic virus type one, leptospirosis, malaria, relapsing fever, syphilis or viral hemorrhagic fever.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Workers' Compensation Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'article 122 de la loi intitulée *Workers' Compensation Act* («*Loi sur les accidents du travail*»), tel qu'il est modifié par les articles 4 et 34 du chapitre 58 des Lois de l'Ontario de 1984, par l'article 4 du chapitre 17 des Lois de l'Ontario de 1985 et par l'article 26 du chapitre 47 des Lois de l'Ontario de 1989, est modifié de nouveau par adjonction des paragraphes suivants :

(9b) Si le travailleur a contracté une maladie transmise par le sang et qu'au moment ou avant la date de son incapacité il était employé dans ou par un hôpital, clinique, centre de traitement, bureau médical ou dentaire, école de médecine ou de nursing, sanitarium, maison de convalescence ou de nursing, maison pour les personnes âgées, laboratoire médical, service de nursing à domicile, service d'ambulance ou toute autre institution, établissement ou service, dans un processus dans lequel il a manipulé ou est entré en contact avec des fluides corporels humains, la maladie sera réputée avoir été due à la nature de cet emploi à moins qu'il n'en soit prouvé le contraire.

(9c) Dans le paragraphe (9b), «maladie transmise par le sang» signifie infection arbovirale, syndrome d'immunodéficience acquise, babésiose, brucellose, maladie de Creutzfeldt-Jakob, infection à cytomégalovirus, hépatite B, virus de l'immunodéficience humaine, virus de l'immunodéficience humaine T-lymphotrope de type 1, leptospirose, malaria, fièvre récurrente, syphilis ou fièvre hémorragique virale.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les accidents du travail*.

Entree en  
vigueur

Titre abrégé





Bill 69	Private Member's Bill	Projet de loi 69	de député
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1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 69

**An Act respecting General Elections**

**Mr. McLean**

1st Reading     April 9th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 69

**Loi concernant les élections générales**

**M. McLean**

1<sup>re</sup> lecture     9 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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#### EXPLANATORY NOTE

The purpose of the Bill is to establish the timing for general elections. Generally elections would be between four and five years apart; an election would be held sooner than that only if the Government had been defeated in the Assembly. The Bill would also establish a maximum sixty-day period between the date of the writs of election and election day.

#### NOTE EXPLICATIVE

Le projet de loi a pour objet de fixer le moment de la tenue d'élections générales. De façon générale, les élections sont tenues à intervalles de quatre à cinq ans; une élection ne peut être tenue dans un délai moindre que si le gouvernement a été défait à l'Assemblée législative. Le projet de loi fixe également un délai maximal de soixante jours entre la date des décrets de convocation des électeurs et le jour du scrutin.

## An Act respecting General Elections

## Loi concernant les élections générales

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) Subject to subsection (2), a general election, as defined in the *Election Act, 1984*, shall be held on the first Thursday in October, 1994 and each general election that follows shall be held on the first Thursday in October after the fourth anniversary of the preceding general election.

(2) If the Government is defeated on a vote in the Legislative Assembly before the day fixed for the next general election under subsection (1), the election shall be held on the day appointed and proclaimed by the Lieutenant Governor in Council for the taking of a poll under the *Election Act, 1984*, which day shall be not more than sixty days after the date of the writs of election.

(3) If an election is held under subsection (2), the date of the next general election shall be determined in accordance with subsections (1) and (2).

(4) Writs for a general election under subsection (1) shall be deemed to be issued sixty days before the day fixed for the election.

**2.** If there is a conflict between this Act and any other Act, this Act prevails to the extent of the conflict.

**3.** This Act comes into force on the day it receives Royal Assent.

**4.** The short title of this Act is the *General Elections Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Sous réserve du paragraphe (2), une élection générale, au sens de la définition du terme «general election» dans la loi intitulée *Election Act, 1984* («*Loi électorale de 1984*»), est tenue le premier jeudi d'octobre 1994 et chaque élection générale subséquente est tenue le premier jeudi d'octobre qui suit le quatrième anniversaire de l'élection générale précédente.

(2) Si le gouvernement est défait par un vote à l'Assemblée législative avant le jour fixé pour l'élection générale suivante aux termes du paragraphe (1), l'élection est tenue le jour que le lieutenant-gouverneur en conseil fixe et proclame pour le déroulement du scrutin aux termes de la loi intitulée *Election Act, 1984* («*Loi électorale de 1984*»). Ce jour tombe au plus tard soixante jours après la date des décrets de convocation des électeurs.

(3) Si une élection est tenue aux termes du paragraphe (2), la date de l'élection générale suivante est déterminée conformément aux paragraphes (1) et (2).

(4) Les décrets de convocation des électeurs à une élection générale visée au paragraphe (1) sont réputés émis soixante jours avant le jour fixé pour la tenue de l'élection.

**2** En cas d'incompatibilité entre la présente loi et toute autre loi, la présente loi l'emporte dans la mesure de cette incompatibilité.

**3** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**4** Le titre abrégé de la présente loi est *Loi de 1991 sur les élections générales*.

Timing of  
general elec-  
tions

Exception

Idem

Writs

This Act to  
prevail

Commence-  
ment

Short title

Moment de la  
tenue d'élec-  
tions généra-  
les

Exception

Idem

Décrets

Primauté de  
la présente  
loi

Entrée en  
vigueur

Titre abrégé





Bill 70	Government Bill	Projet de loi 70	du gouvernement
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1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 70

**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**The Hon. B. Mackenzie**  
Minister of Labour

1st Reading      April 11th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 70

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

**L'honorable B. Mackenzie**  
Ministre du Travail

1<sup>re</sup> lecture      11 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



## EXPLANATORY NOTE

The Bill amends the *Employment Standards Act* in two principal respects: in the proposed Part XII-A of the Act it creates the Employee Wage Protection Program (section 5 of the Bill); and in the proposed Part XII-B it makes officers and directors liable for wages under the Act (section 6 of the Bill). The Bill also makes a number of amendments that are ancillary to its two principal parts.

### EMPLOYEE WAGE PROTECTION PROGRAM

1. Under the Program an employee will be entitled to receive up to \$5,000 in compensation from the Program if an employer fails to pay the employee his or her wages (proposed sections 40b, 40e and 40i).
2. In order to be eligible for compensation, employees with lien rights under the *Construction Lien Act, 1983* must use their best efforts to preserve their lien claims (proposed section 40f).
3. The Program Administrator will be subrogated to the rights of an employee who receives compensation. If the Program Administrator recovers money on behalf of an employee in excess of the compensation that was paid, the excess will be paid to the employees. Employees who are over-compensated may be required to reimburse the Program (proposed sections 40m, 40n and 40o).

### LIABILITY OF OFFICERS AND DIRECTORS

4. Under the proposed Part XII-B of the Act (section 6 of the Bill), officers and directors of employers will be jointly and severally liable to employees up to a maximum of the equivalent of six months' wages and twelve months' vacation pay (proposed section 40s).
5. An employment standards officer who makes an order for wages against an employer may at the same time make an order against some or all of the officers and directors of the employer. If an order is not issued against officers and directors when an order is issued against the employer, an employment standards officer may subsequently issue an order against officers and directors (proposed sections 40u and 40v).
6. An officer or director who fails to comply with an order to pay wages is guilty of an offence punishable by a fine of up to \$50,000 (proposed section 40y).
7. An officer or director cannot contract out of liability under this Part but the employer may indemnify an officer or director in respect of any proceeding to which the person is a party because the person is an officer or director (proposed section 40z).
8. Nothing in this Part affects any civil remedy that a person may have against an officer or director or affects any civil remedy that an officer or director may have against any person (proposed section 40za).

### MISCELLANEOUS AMENDMENTS

9. Decisions of the Administrator of the Employee Wage Protection Program are not subject to the *Statutory Powers Procedure Act* (section 1 of the Bill, proposed subsection 2 (4) of the Act).
10. The monetary limit on the amount that an employment standards officer may award in various situations is removed (sections 2, 3 and 8 of the Bill, proposed sections 39c and 39f and clause 47 (1) (c) of the Act).

## NOTE EXPLICATIVE

Le projet de loi modifie la *Loi sur les normes d'emploi* essentiellement à deux égards : dans la partie XII-A proposée de la Loi, est créé le Programme de protection des salaires des employés (article 5 du projet de loi); dans la partie XII-B proposée, les dirigeants et les administrateurs sont rendus responsables du versement des salaires aux termes de la Loi (article 6 du projet de loi). Le projet de loi apporte en outre un certain nombre de modifications qui sont connexes à ses deux parties principales.

### PROGRAMME DE PROTECTION DES SALAIRES DES EMPLOYÉS

1. Selon le Programme, tout employé est admissible à une indemnité maximale de 5 000 \$ dans le cadre du Programme si son employeur omet de lui verser son salaire (articles 40b, 40e et 40i proposés).
2. Pour être admissibles à une indemnité, les employés qui sont titulaires de privilèges aux termes de la *Loi de 1983 sur le privilège dans l'industrie de la construction* doivent faire tous les efforts possibles pour conserver leurs privilèges (article 40f proposé).
3. L'administrateur du Programme est subrogé dans les droits de l'employé qui touche une indemnité. Si l'administrateur du Programme recouvre, au nom d'un employé, une somme supérieure à l'indemnité qui a été versée, le montant excédentaire est versé aux employés. Les employés trop largement indemnisés peuvent être tenus de rembourser le surplus au Programme (articles 40m, 40n et 40o proposés).

### RESPONSABILITÉ DES DIRIGEANTS ET DES ADMINISTRATEURS

4. Aux termes de la partie XII-B proposée de la Loi (article 6 du projet de loi), les dirigeants et les administrateurs des employeurs sont solidairement responsables envers les employés jusqu'à concurrence d'un montant équivalent au salaire de six mois et à l'indemnité de vacances de douze mois (article 40s proposé).
5. L'agent des normes d'emploi qui rend une ordonnance à l'égard d'un employeur en vue d'obtenir de celui-ci le versement d'un salaire peut en même temps rendre une ordonnance à l'égard de quelques-uns ou de l'ensemble des dirigeants et administrateurs de l'employeur. Si aucune ordonnance n'est rendue à l'égard des dirigeants et des administrateurs au moment du prononcé de l'ordonnance à l'égard de l'employeur, l'agent des normes d'emploi peut par la suite rendre une ordonnance à l'égard des dirigeants et des administrateurs (articles 40u et 40v proposés).
6. Le dirigeant ou l'administrateur qui ne se conforme pas à une ordonnance visant à obtenir le versement d'un salaire est coupable d'une infraction et passible d'une amende maximale de 50 000 \$ (article 40y proposé).
7. Un dirigeant ou un administrateur ne peut se libérer par contrat de la responsabilité qui lui échoit en vertu de la présente partie. Cependant, l'employeur peut l'indemniser relativement à toute instance à laquelle il est partie en sa qualité de dirigeant ou d'administrateur (article 40z proposé).
8. La présente partie est sans incidence sur les recours civils que quiconque peut exercer contre un dirigeant ou un administrateur ni sur ceux que les dirigeants ou les administrateurs peuvent exercer contre quiconque (article 40za proposé).

### MODIFICATIONS DIVERSES

9. Les décisions de l'administrateur du Programme de protection des salaires des employés ne sont pas assujetties à la *Loi sur l'exercice des compétences légales* (article 1 du projet de loi, paragraphe 2 (4) proposé de la Loi).
10. La limite pécuniaire applicable au montant qu'un agent des normes d'emploi peut attribuer dans divers cas est supprimée (articles 2, 3 et 8 du projet de loi, articles 39c et 39f et alinéa 47 (1) (c) proposés de la Loi).

11. If an employer enters into an agreement for the settlement of wages or for the settlement of severance pay and the employer does not pay the agreed upon amount or it is demonstrated that the settlement was reached because of the employer's fraud or coercion, an employment standards officer may make an order for payment of the wages or severance pay (section 4 and subsection 8 (2) of the Bill, proposed subsections 40a (18) and (19) and 47 (1a) of the Act).
12. The Minister may appoint adjudicators to hold hearings into, among other things, complaints of employees over the failure of an employment standards officer to issue an order for outstanding wages (sections 7 and 9 of the Bill, proposed sections 42a and 49 of the Act).
13. The review hearing conducted by a referee is expedited (sections 10 and 11 of the Bill, proposed subsections 50 (5b) and 51 (1d) of the Act).

The Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French version of this Act.

11. Si un employeur conclut une entente en vue du règlement d'un salaire ou d'une indemnité de cessation d'emploi et qu'il ne verse pas le montant convenu ou s'il est prouvé qu'un règlement est intervenu par suite de fraude ou de contrainte de la part de l'employeur, l'agent des normes d'emploi peut rendre une ordonnance visant à obtenir le versement du salaire ou de l'indemnité de cessation d'emploi (article 4 et paragraphe 8 (2) du projet de loi, paragraphes 40a (18) et (19) et 47 (1a) proposés de la Loi).
12. Le ministre peut nommer des arbitres de griefs pour tenir des audiences notamment à l'égard des plaintes d'employés portant sur le défaut d'un agent des normes d'emploi de rendre une ordonnance relativement à des salaires impayés (articles 7 et 9 du projet de loi, articles 42a et 49 proposés de la Loi).
13. L'audience en révision présidée par un arbitre se déroule de façon expéditive (articles 10 et 11 du projet de loi, paragraphes proposés 50 (5b) et 51 (1d) de la Loi).

Le projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.





**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 2 (3) of the *Employment Standards Act* is amended by striking out “47 or 49” in the fourth line and substituting “39c, 39f, 47 or subsection 49 (1) or (2)”.

**(2)** Section 2 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 1, is further amended by adding the following subsection:

Non-applica-  
tion of  
Statutory  
Powers  
Procedure  
Act

**(4)** Part I of the *Statutory Powers Procedure Act* does not apply to the exercise of any power conferred on the Program Administrator under Part XII-A or to the exercise of any power by the Director under section 50.

**2.** Section 39c of the Act, as enacted by the Statutes of Ontario, 1983, chapter 55, section 2, is repealed and the following substituted:

Order of  
employment  
standards  
officer

**39c.** Where an employer contravenes a provision of this Part, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate in employment or to hire the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement or hiring for loss of earnings or other employment benefits.

**3.** Section 39f of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1, is repealed and the following substituted:

Employment  
standards  
officer may  
make order

**39f.** Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 2 (3) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*») est modifié par substitution, à «47 or 49» à la quatrième ligne, de «39c, 39f, 47 or subsection 49 (1) or (2)».

**(2)** L'article 2 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 55 des Lois de l'Ontario de 1983, est modifié de nouveau par adjonction du paragraphe suivant :

**2** L'article 39c de la Loi, tel qu'il est adopté par l'article 2 du chapitre 55 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

**3** L'article 39f de la Loi, tel qu'il est adopté par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

**4. Section 40a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by 1984, chapter 31, section 1 and 1987, chapter 30, section 5, is further amended by adding the following subsections:**

Failure to  
pay sever-  
ance pay

(18) If a trade union has entered into a settlement agreement under subsection (15) and the employer does not pay the severance pay agreed to or the trade union demonstrates that the agreement was made as the result of fraud or coercion, an employment standards officer may make an order under section 47 as to what action, if any, the employer shall take and may make an order to compensate the employee for the severance pay that is owed.

Calculation  
of severance  
pay

(19) For purposes of subsection (18), the amount of severance pay an employee is entitled to in an order under section 47 is the amount as calculated under subsection (1c).

**5. The Act is amended by adding the following Part:**

**4 L'article 40a de la Loi, tel qu'il est adopté par l'article 2 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 1 du chapitre 31 des Lois de l'Ontario de 1984 et par l'article 5 du chapitre 30 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction des paragraphes suivants :**

**5 La Loi est modifiée par adjonction de la partie suivante :**

## PART XII-A

### EMPLOYEE WAGE PROTECTION PROGRAM

Program  
established

**40b.**—(1) The Employee Wage Protection Program is hereby established.

Wages

(2) Except for the purposes of section 40h, when an employee is compensated by the Program, the wages for which the employee may receive compensation are,

(a) regular wages, overtime wages, vacation pay, holiday pay, termination pay and severance pay;

(b) amounts that are deemed to be wages under subsection 33 (4);

(c) compensation awarded under sections 39, 39c and 39f and clause 39k (3) (b) in so far as the compensation is awarded for loss of earnings and for termination pay and severance pay; and

(d) such additional amounts as may be prescribed by regulation.

Vacation pay

(3) The vacation pay for which an employee may be compensated is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.

Holiday pay

(4) The amount of holiday pay for which an employee may be compensated from the Program is the greater of the amount for the holidays at the rate as determined under this

Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.

(5) The overtime wages for which an employee may be compensated are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.

Overtime  
wages

(6) The amount of termination pay and severance pay for which an employee may be compensated is the amount as provided by this Act.

Termination  
pay and  
severance  
pay

**40c.**—(1) The Minister shall appoint a person to administer the Program.

Program  
Adminis-  
trator

(2) The Program Administrator may exercise the powers conferred and shall perform the duties imposed on him or her under this Act.

Powers and  
duties

(3) The Program Administrator may delegate any of his or her powers and duties to a person employed at the Ministry.

Delegation  
of authority

(4) The Program Administrator, in the name of his or her office, may bring any proceeding he or she considers necessary in relation to the Program and he or she may respond to any proceeding in that name.

Legal  
proceedings



Testimony in  
civil  
proceedings

**40d.** The Program Administrator and any person employed at the Ministry to whom his or her powers and duties have been delegated shall not be required to testify in a civil proceeding or in a proceeding before any other tribunal respecting information obtained in the discharge of the Program Administrator's duties under this Act.

Right to  
compensa-  
tion

**40e.**—(1) An employee is eligible for compensation from the Program if,

- (a) where the employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy and the claim has not been paid;
- (b) an employment standards officer has made an order that the employer pay wages to the employee, unless the employer has applied to have the order reviewed or the amount set out in the order has been paid;
- (c) an employment standards officer has made an order that the officers and directors pay wages to the employee, unless they have applied to have the order reviewed or the amount set out in the order has been paid; or
- (d) a referee acting under section 39k, 50 or 51 or an adjudicator acting under subsection 49 (3) has made, amended or affirmed an order that wages are owed to the employee and the amount set out in the order has not been paid.

Idem

(2) If an employee has been paid wages pursuant to an order and the employee is still owed wages under the order, the employee is eligible for compensation from the Program for the balance of wages owed to the limit of the recovery set out in section 40i, less the amount already paid.

Deemed  
order

(3) For purposes of this Act, any claim described in clause (1) (a) that has been verified by the Program Administrator is deemed to be an order.

Construction  
workers

**40f.**—(1) Despite section 40e, employees who are entitled to the protection of a lien under the *Construction Lien Act, 1983* are only eligible for compensation from the Program if they have used their best efforts to preserve and enforce their lien claim.

Idem

(2) If the Program Administrator is satisfied that such employees could not get sufficient information to preserve and enforce their rights, were unable to preserve and enforce them or were unaware of their rights, he or she may allow the employees to be compensated from the Program in the same manner as any other employee.

(3) If an employee who is entitled to the protection of a lien is compensated by the Program, the Program Administrator may require the employee to subrogate his or her rights in the lien to the Program Administrator, or may require the employee to assign any judgment arising from the lien claim to the Program Administrator.

Idem

**40g.**—(1) If a trade union has entered into a settlement agreement with an employer over severance pay under subsection 40a (15), and the employer has paid the severance pay agreed to, an employee is not eligible for compensation for severance pay from the Program.

Settlement  
of severance  
pay

(2) Despite subsection (1), an employee is eligible for compensation for severance pay from the Program if an employment standards officer has made an order under subsection 47 (1) with respect to the severance pay and it has not been paid and the employer has not applied to have the order reviewed.

Exception

**40h.**—(1) An employee who has entered into a settlement or compromise of wages under clause 47 (1) (b) and who has received the amount agreed upon is not eligible for compensation from the Program for the wages that were the subject of the settlement or compromise.

Settlement  
of wages

(2) Despite subsection (1), an employee is eligible for compensation from the Program for the wages that were the subject of the settlement or compromise if an employment standards officer has made an order under subsection 47 (1) with respect to those wages and they have not been paid and the employer has not applied to have the order reviewed.

Exception

**40i.** The maximum amount of compensation that an employee may receive from the Program in respect of his or her employment with an employer is \$5,000 or such greater amount as is prescribed.

Maximum  
recovery

**40j.**—(1) An employee who is eligible for compensation from the Program may be compensated when wages are due and owing and the Program Administrator has verified that the wages are owing and their amount.

When  
compensa-  
tion ordered

(2) Upon approving compensation for the employee, the Program Administrator shall apportion the compensation in such manner as may be prescribed among the types of wages described in subsection 40b (2).

Apportion-  
ment

**40k.**—(1) If an employer has made an application for review under section 50, the Program Administrator may approve compensation only if the referee acting under section 50 affirms or amends the order such that the employer is found to be liable to pay the wages.

Application  
for review

Idem

(2) If an employment standards officer has made a report that an employer may have failed to pay wages owed to an employee and the Director appoints a referee to hold a hearing under section 51, the Program Administrator may approve compensation from the Program only if the referee acting under section 51 orders that the employer pay the wages.

Payment while hearing continues

(3) If, during a hearing under section 51, the referee finds that the employees are entitled to wages or there is an undisputed portion of wages and he or she makes an interim order before the hearing is completed that those wages are owed, the Program Administrator may approve compensation from the Program in the amount of the interim order.

Disputes over amount owed

(4) If, during a hearing under section 50, the referee finds that there is an undisputed portion of wages to which the employees are entitled and he or she amends or affirms the order to the extent of those wages before the hearing is completed, the Program Administrator may approve compensation from the Program in the amount of the interim order.

Complaints under s. 49

**40L.** If an employee applies for a review under subsection 49 (2), the Program Administrator may approve compensation only if the adjudicator conducting the review makes an order that the employee is entitled to the wages or amends the order of the employment standards officer such that the employee is entitled to wages.

Recovery of overpayments

**40m.** If the compensation received from the Program exceeds the wages to which the employee was entitled, the Program Admin-

istrator, on the basis of the prescribed criteria, may seek repayment of the excess amount.

**40n.**—(1) If the Program Administrator recovers from a person who was liable for the wages an amount greater than the compensation that the employee received from the Program, he or she shall pay the excess amount to the employee. Excess recovery

(2) For purposes of this section, the excess amount is the amount the Program has recovered up to the amount owed under the order less the compensation already received by the employee and the administration costs owed by the employer. Calculation of excess

**40o.** The Program Administrator is subrogated to all the rights of an employee who is compensated by the Program and may bring an action against the employer, or any other person who is liable, for the wages and for administration costs as determined under clause 47 (1) (c) or may use the provisions of this Act to collect those amounts. Subrogation to Program

**40p.** Where money may be received by an employee under this Part, or may be collected from a person who is liable to pay wages, interest may be collected on the money as prescribed. Interest

**40q.** If the employee and employer enter into an agreement for the purpose of increasing the amount of compensation the employee is eligible to recover from the Program, the Program Administrator may decide to limit the compensation to the amount as determined under the employment contract before the agreement was made. Limits on recovery

**6.** The Act is further amended by adding the following Part:

**6** La Loi est modifiée en outre par adjonction de la partie suivante :

## PART XII-B

### LIABILITY OF OFFICERS AND DIRECTORS

Definitions

**40r.** In this Part,

“director” includes a shareholder who, as a party to a unanimous shareholder’s agreement, has the rights, powers, duties and liabilities of a director;

“officer” means,

(a) a person designated as an officer by the directors of a corporation and includes the chair of the board of directors, the president, the vice-president, the secretary, the treasurer and the general manager of a corporation and any other individual who performs functions for the corporation similar to those normally performed by a person who is designated an officer, and

(b) any person who performs functions with an employer that is not a corpo-

ration similar to those performed by a person described in clause (a).

**40s.**—(1) The officers and directors of an employer are jointly and severally liable for wages as provided in this Part if, Liability of officers and directors

(a) where an employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer’s trustee in bankruptcy and the claim has not been paid;

(b) an employment standards officer has made an order that the employer is liable for wages, unless the amount set out in the order has been paid or the employer has applied to have it reviewed;



- (c) an employment standards officer has made an order that an officer or director is liable for wages, unless the amount set out in the order has been paid or the officer or director has applied to have it reviewed; or

- (d) an adjudicator acting under subsection 49 (3) or a referee acting under section 39k, 50 or 51 has made, amended or affirmed an order that the employer is liable for wages or that directors or officers are liable for wages and the amount set out in the order has not been paid.

(2) Despite subsection (1), the employer is primarily responsible for an employee's wages but proceedings against the employer under this Act do not have to be exhausted before proceedings may be commenced to collect wages from officers or directors under this Part.

(3) The wages that officers and directors are liable for under this Part are,

- (a) regular wages, overtime wages, vacation pay, holiday pay, termination pay and severance pay;
- (b) amounts that are deemed to be wages under subsection 33 (4);
- (c) compensation awarded under sections 39, 39c and 39f and clause 39k (3) (b) in so far as the compensation is awarded for loss of earnings and for termination pay and severance pay; and
- (d) such additional amounts as may be prescribed by regulation.

(4) The vacation pay that officers and directors are liable for is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.

(5) The amount of holiday pay that officers and directors are liable for is the greater of the amount for the holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.

(6) The overtime wages that officers and directors are liable for are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.

(7) The amount of termination pay and severance pay that officers and directors are liable for is the amount as provided by this Act.

(8) Officers and directors of an employer are liable to employees for up to the equivalent of six months' wages and for up to twelve months' vacation pay.

(9) Officers and directors are liable to pay interest as prescribed on outstanding wages for which they are liable.

**40t.**—(1) Officers and directors are liable to the Employee Wage Protection Program for compensation awarded under section 40g or 40h to the extent and in the circumstances described in this section.

(2) An officer or director shall be liable for wages to the extent of the settlement or compromise unless,

- (a) after the settlement or compromise, the employer became insolvent and the officer or director knew or ought to have known of the insolvency when the settlement or compromise was agreed to; or
- (b) the settlement or compromise was made as the result of fraud or coercion on the part of the employer and the officer or director knew or ought to have known of it.

(3) An officer or director shall only be held liable for an amount in excess of the settlement or compromise when, on the grounds set out in subsection (2), an employment standards officer makes an order assessing such greater amount.

(4) Nothing in this section increases the maximum liability of an officer or director under this Act beyond the amounts set out in subsections 40s (7) and (8).

**40u.**—(1) If an employment standards officer makes an order against an employer under section 39, 39c, 39f, 40a or 47 that an amount be paid, he or she may make an order to pay under this section against some or all of the directors or officers of the employer and may serve a copy of the order on them together with a copy of the order to pay against the employer.

(2) Within fifteen days of service of the order or in such longer period as the Director may for special reasons allow, an officer or director may apply under section 50 to have the order against them reviewed or to have a finding that he or she is an officer or director reviewed.

(3) For the purposes of a review provided for in subsection (2), a reference in section 50 to "employer" shall be deemed to read as a reference to "officer or director".

(4) Despite subsection (3), an officer or director who applies for a review is not obliged to pay the wages that an employer is

Maximum liability

Interest

Liability for settlements

Idem

Determination of liability

Maximum liability

Orders: when order against employer

Application for review

Idem

Idem

Employer primarily responsible

Wages

Vacation pay

Holiday pay

Overtime wages

Termination pay and severance pay

required to pay to the Director under subsection 50 (1).

Effect of  
order

(5) If the directors or officers do not comply with the order or do not apply to have it reviewed, the order becomes final and binding against the officers and directors even though a review hearing is held to determine another person's liability under this Act.

Orders:  
insolvent  
employer

(6) If an employer is insolvent and the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy, and the claim has not been paid, the employment standards officer may issue an order to pay against some or all of the officers and directors and shall serve it on them.

Procedure

(7) Subsections (2), (3), (4) and (5) apply with necessary modifications to an order made under subsection (6).

Orders: after  
order against  
employer

**40v.**—(1) An employment standards officer may make an order against some or all of the officers or directors of an employer who were not the subject of an order under subsection 40u (1) or (6), and may serve it on them,

(a) after an employment standards officer has made an order against the employer under section 39, 39c, 39f, 40a or 47 that an amount be paid and the amount has not been paid and the employer has not applied to have it reviewed;

(b) after an employment standards officer has made an order against officers or directors under section 40u (1) or (6) and the amount has not been paid and they have not applied to have it reviewed;

(c) after an adjudicator has made, amended or affirmed an order against an employer under section 49 that an amount be paid and the amount has not been paid; or

(d) after a referee acting under section 39k, 50 or 51 has made, affirmed or amended an order that the employer or the officers or directors owe wages to the employee.

Review

(2) An officer or director who is served under subsection (1) and who considers himself or herself aggrieved by the order may, within fifteen days of its service or such longer period as the Director may for special reasons allow, apply to have it or the finding that he or she is an officer or director reviewed by way of a hearing.

Application  
for review

(3) An application for review shall be made in writing to the Director and shall specify the grounds for the application.

(4) The review shall be heard as soon as is practicable by a referee selected by the Director from the panel of referees. Hearing

(5) The officers and directors who are served, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to the application for review and, on the review, the officers and directors served shall be the applicants and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents. Parties

(6) On a review, the referee may substitute his or her findings for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order against any or all of the officers and directors who were served. Idem

(7) A decision of the referee under this section is final and binding upon the parties to the review and on such other parties as the referee may specify and is not subject to a review under section 50. Decision  
final and  
binding

**40w.**—(1) A person who ceases to be an officer or director of an employer within one year before the employer becomes insolvent or fails to pay the wages for which an employee receives compensation from the Employee Wage Protection Program remains liable under the order, if any, under this Act. Resignation  
of officers or  
directors

(2) No proceeding under this Act and no other proceeding against a director or officer for amounts owing under this Part shall be commenced more than two years after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

(3) The limitation periods set out in section 131 of the *Business Corporations Act*, 1982 do not apply to a proceeding under this Act or any other proceeding to recover money owed under this Part. Idem

(4) If a judgment has been obtained against the employer or a certificate has been filed under section 54, an officer or director from whom the Program Administrator has recovered is entitled to an assignment of the judgment or certificate to the extent of the amount that has been recovered from that officer or director after the Employee Wage Protection Program and the employees have fully recovered the wages that were owed. Assignment  
of judgment

**40x.**—(1) An officer or director may be served by prepaid registered mail addressed to their last known address or may be served personally. Service

(2) If the document that was mailed under subsection (1) is returned and the officer or director is not served personally, the Direc- Appointment  
of adjudicator



tor may appoint an adjudicator to consider the manner of service.

Powers of  
adjudicator

(3) The adjudicator may order that service be effected in such manner as he or she considers appropriate in the circumstances.

Offence

**40y.**—(1) Any director or officer who fails to comply with an order of an employment standards officer and who has not applied for a review of it or who fails to comply with an order of an adjudicator or a referee is guilty of an offence and is liable on conviction to a fine not exceeding \$50,000.

No  
contracting

**40z.**—(1) No provision in a contract, in the articles of incorporation or the by-laws of a corporation or in a resolution of a corporation relieves a director or officer from the duty to act according to this Act or relieves him or her from liability for breach of it.

Indemnifica-  
tion of offi-  
cers and  
directors

(2) An employer may indemnify an officer or director, a former officer or director and

**7. The Act is further amended by adding the following section:**

Appointment  
of adjudica-  
tors

**42a.**—(1) The Minister shall appoint such persons to be adjudicators as he or she considers necessary for the purposes of this Act.

Remunera-  
tion

(2) An adjudicator shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

**8.**—(1) Clause 47 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3 and amended by 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is repealed and the following substituted:

the heirs or legal representative of an officer or director or former officer or director against all costs, charges and expenses reasonably incurred by the officer or director in respect of any civil or administrative action or proceeding to which he or she is a party by reason of being or having been an officer or director of the employer if,

(a) he or she has acted honestly and in good faith with a view to the best interests of the employer; and

(b) in the case of a proceeding or action that is enforced by a monetary penalty, he or she had reasonable grounds for believing that their conduct was lawful.

**40za.** No civil remedy that a person may have against an officer or director or that an officer or director may have against any person is suspended or affected by this Part.

Civil  
remedies  
protected

**7 La Loi est modifiée en outre par adjonction de l'article suivant :**

**8** (1) L'alinéa 47 (1) (c) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

(c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and in addition such order shall provide for payment, by the employer to the Director, of administration costs in the amount of 10 per cent of the wages or \$100, whichever is the greater.

(2) Section 47 of the Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 3, 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is further amended by adding the following subsections:

Failure to  
pay sever-  
ance pay

(1a) If an employee has agreed to a compromise or settlement under clause (1) (b) and the employer does not pay the wages agreed upon or the employee demonstrates that the compromise or settlement was entered into as the result of the employer's fraud or coercion, an employment standards

(2) L'article 47 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981, par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des paragraphes suivants :

officer may issue an order under subsection (1).

Effect of  
order

(7) If an employer fails to apply under section 50 for a review of an order issued by an employment standards officer, the order becomes final and binding against the employer even though a review hearing is held to determine another person's liability under this Act.

**9. Subsection 49 (2) of the Act is repealed and the following substituted:**

**9 Le paragraphe 49 (2) de la Loi est abrogé et remplacé par ce qui suit :**

Review of  
refusal to  
issue order

(2) An employee who considers himself or herself aggrieved by the refusal to issue an order to an employer or by the issuance of an order that in his or her view does not include all of the wages to which he or she is entitled may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection (1) or the date of the issue of the order or such longer period as the Director may for special reasons allow for a review of the refusal or of the amount of the order.

Appointment  
of adjudicator

(3) Upon receipt of an application for review, the Director may appoint an adjudicator who shall hold a hearing.

Parties to  
hearing

(4) The employee who applied for the review, the employment standards officer whose order or refusal to make an order is the subject of the review and such other persons, including the employer and officers and directors of the employer, as the adjudicator may specify are parties to the review hearing.

Power of  
adjudicator

(5) The adjudicator who is conducting the hearing may with necessary modifications exercise the powers conferred on an employment standards officer under this Act and may make an order with respect to the refusal or an order to amend, rescind or affirm the order of the employment standards officer.

Notice

(6) When the adjudicator makes an order or amends, rescinds or affirms an order of the employment standards officer, he or she shall notify the employee and any other person affected by it of the order by prepaid letter addressed to the person's last known address.

Decision of  
adjudicator

(7) The order of the adjudicator is not subject to a review under section 50 and is final and binding on the parties.

**10.—(1)** Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after “39f” in the amendment of 1988 “40t, 40u”.

**10 (1)** Le paragraphe 50 (1) de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié de nouveau par insertion, après «39f» dans la modification de 1988, de «40t, 40u».



**(2) Subsection 50 (3) of the Act is repealed.**

**(2) Le paragraphe 50 (3) de la Loi est abrogé.**

**(3) Section 50 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by adding the following subsections:**

**(3) L'article 50 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié de nouveau par adjonction des paragraphes suivants :**

Interest

(1a) An employer who has applied for a review of the order is liable for interest as prescribed on any wages that are found to be owing and such interest shall be paid according to the decision of the referee.

Information on entitlement to wages

(5a) If an employer applies for a review, the employer shall provide the facts supporting why the entitlement to the wages is being challenged for each employee to the Director within fifteen days of applying for the review or such longer period as the Director may for special reasons allow, unless the Director waives this requirement in whole or in part.

Expedited hearing

(5b) Not later than forty-five days after the review was applied for or such longer period as the referee may, because of an extension given under subsection (5a), allow and before considering any other substantive issue, the referee shall commence the hearing on the employee's entitlement to wages.

Interim order

(5c) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages, he or she shall affirm or amend the order of the employment standards officer or make such other order as he or she considers appropriate to the extent of the undisputed portion of the wages before the hearing is completed.

**11. Section 51 of the Act is amended by adding the following subsections:**

**11 L'article 51 de la Loi est modifié par adjonction des paragraphes suivants :**

Deemed employers

(1a) Officers and directors of an employer who is the subject of a report under subsection (1) have all the rights and defences of an employer for the purposes of the review and are bound by this section in like manner as the employer, except that their liability is limited to the amounts set out in subsections 40s (7) and (8).

Idem

(1b) For purposes of a hearing provided for under subsection (1), a reference to "employer" shall be deemed to read as a reference to "officer or director".

Information on entitlement for wages

(1c) An employer who is the subject of a report under subsection (1) shall provide the facts supporting why the entitlement to the wages is disputed for each employee to the Director within fifteen days of the Director appointing a referee or such longer period as the referee may for special reasons allow,

unless the referee waives this requirement in whole or in part.

Expedited  
hearing

(1d) Not later than forty-five days after the Director appoints the referee or such longer period as the referee may for special reasons allow and before considering any other substantive issue, the referee shall commence the hearing on the employee's entitlement to wages.

Interim deci-  
sion

(1e) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages or that certain wages are owed, he or she shall make an interim order with respect to such wages.

**12. Section 52 of the Act is repealed and the following substituted:**

**12 L'article 52 de la Loi est abrogé et remplacé par ce qui suit :**

Payment to  
Director

**52.—(1)** Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act or to an officer or director who is liable to make any payment under this Act, the Director may, by registered letter or letter served personally, demand that the person pay the money otherwise payable to the employer or to the officer or director in whole or in part to the Director in trust in account of liability under this Act.

Receipt of  
Director

(2) The receipt of the Director for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability to  
pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act or to an officer or director who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he or she was required under this section to pay, whichever is the lesser.

**13.—(1)** Subsection 54 (1) of the Act is amended by adding after "employees" in the third line "or requiring an officer or director to pay any money to the Director for or on behalf of an employee or employees".

**13 (1)** Le paragraphe 54 (1) de la Loi est modifié par insertion, après «employees» à la troisième ligne, de «or requiring an officer or director to pay any money to the Director for or on behalf of an employee or employees».

(2) Subsection 54 (2) of the Act is repealed and the following substituted:

(2) Le paragraphe 54 (2) de la Loi est abrogé et remplacé par ce qui suit :

Copy of  
certificate

(2) The Director shall send a copy of the certificate to the employer or to the officer or director, as the case may be, by registered mail and shall advise the employer or the officer or director of the date the certificate was filed.

**14. Section 58 of the Act is amended by adding the following subsection:**

**14 L'article 58 de la Loi est modifié par adjonction du paragraphe suivant :**

Offence

(2) No person shall provide false or misleading information under this Act.

**15.** Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7 and 1990, chapter 26, section 4, is further amended by adding the following clauses:

**15** Le paragraphe 65 (1) de la Loi, tel qu'il est modifié par l'article 7 du chapitre 30 des Lois de l'Ontario de 1987 et par l'article 4 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des alinéas suivants :

- (rb) prescribing other payments that are wages for purposes of subsections 40b (1) and 40s (2);
- (rc) establishing criteria for seeking repayment for excess compensation for purposes of section 40m;
- (rd) governing the payment of interest under any or all of sections 40p, 40s and 50;
- (re) providing for and governing the consolidation of hearings under this Act;
- (rf) providing for the manner of apportioning compensation under subsection 40j (2).

Transition

**16.—**(1) An employee who would be eligible for compensation from the Employee Wage Protection Program under subsection 40e (1) of the *Employment Standards Act*, as enacted by section 5 of this Act, may be compensated,

- (a) when, on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, wages, excluding termination pay and severance pay, are due and owing;
- (b) when, due to a lay-off that commenced on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, the employee is terminated or is deemed to be terminated and termination pay or severance pay is due and owing; and
- (c) when a termination occurs on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force and termination pay or severance pay is due and owing.

**16** (1) L'employé qui serait admissible à une indemnité dans le cadre du Programme de protection des salaires des employés aux termes du paragraphe 40e (1) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est adopté par l'article 5 de la présente loi, peut être indemnisé dans les cas suivants :

- a) lorsque, le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, un salaire, à l'exception des indemnités de licenciement et de cessation d'emploi, lui est dû;
- b) lorsque, en raison d'une mise à pied ayant pris effet le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, l'employé est licencié ou est réputé l'être et qu'une indemnité de licenciement ou de cessation d'emploi lui est due;
- c) lorsque son licenciement survient le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, et qu'une indemnité de licenciement ou de cessation d'emploi lui est due.

Disposition transitoire

Idem

(2) If an order is issued with respect to wages described in subsection (1), the order shall not exceed the sum of,

- (a) \$4,000 with respect to any wages other than the employee's severance pay and compensation awarded under section 39;

(2) Dans le cas où est rendue une ordonnance relativement au salaire visé au paragraphe (1), l'indemnité prévue par l'ordonnance ne dépasse pas la somme des montants suivants :

- a) 4 000 \$ au titre de tout salaire, à l'exception de l'indemnité de cessation d'emploi de l'employé et de l'indemnité qui lui est attribuée en vertu de l'article 39;

Idem



- (b) the amount of the employee's severance pay, if any; and
- (c) the amount of compensation awarded under section 39, if any.

- b) le montant de l'indemnité de cessation d'emploi de l'employé, le cas échéant;
- c) le montant de l'indemnité qui lui est attribuée en vertu de l'article 39, le cas échéant.

Idem

(3) For purposes of this section, any claim described in clause 40e (1) (a) of the *Employment Standards Act*, as made by section 5 of this Act, that has been verified by the Program Administrator is deemed to be an order.

(3) Pour l'application du présent article, toute demande visée à l'alinéa 40e (1) (a) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est adopté par l'article 5 de la présente loi, et qu'a vérifiée l'administrateur du Programme est réputée une ordonnance.

Idem

Idem

(4) Despite subsection (2), the maximum amount of compensation that an employee may receive under this section is \$5,000.

(4) Malgré le paragraphe (2), l'indemnité maximale qu'un employé peut recevoir en vertu du présent article est de 5 000 \$.

Idem

Commence-  
ment

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

17 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

Short title

18. The short title of this Act is the *Employment Standards Amendment Act (Employee Wage Protection Program)*, 1991.

18 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les normes d'emploi (Programme de protection des salaires des employés)*.

Titre abrégé



**Bill 70** **Government Bill** **Projet de loi 70** **du gouvernement**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991



## Bill 70

**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**The Hon. B. Mackenzie**  
Minister of Labour

1st Reading April 11th, 1991  
2nd Reading June 19th, 1991  
3rd Reading  
Royal Assent

*(Reprinted as amended by the  
Resources Development Committee)*

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## Projet de loi 70

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

**L'honorable B. Mackenzie**  
Ministre du Travail

1<sup>re</sup> lecture 11 avril 1991  
2<sup>e</sup> lecture 19 juin 1991  
3<sup>e</sup> lecture  
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## EXPLANATORY NOTE

The Bill amends the *Employment Standards Act* in two principal respects: in the proposed Part XII-A of the Act it creates the Employee Wage Protection Program (section 5 of the Bill); and in the proposed Part XII-B it makes directors liable for wages under the Act (section 6 of the Bill). The Bill also makes a number of amendments that are ancillary to its two principal parts.

### EMPLOYEE WAGE PROTECTION PROGRAM

1. Under the Program an employee will be entitled to receive up to \$5,000 in compensation from the Program if an employer fails to pay the employee his or her wages (proposed sections 40b, 40e and 40i).
2. In order to be eligible for compensation, employees with lien rights under the *Construction Lien Act, 1983* must use their best efforts to preserve their lien claims (proposed section 40f).
3. The Program Administrator will be subrogated to the rights of an employee who receives compensation. If the Program Administrator recovers money on behalf of an employee in excess of the compensation that was paid, the excess will be paid to the employees. Employees who are over-compensated may be required to reimburse the Program (proposed sections 40m, 40n and 40o).

### LIABILITY OF DIRECTORS

4. Under the proposed Part XII-B of the Act (section 6 of the Bill), directors of employers will be jointly and severally liable to employees up to a maximum of the equivalent of six months' wages and twelve months' vacation pay (proposed section 40s).
5. An employment standards officer who makes an order for wages against an employer may at the same time make an order against some or all of the directors of the employer. If an order is not issued against directors when an order is issued against the employer, an employment standards officer may subsequently issue an order against officers and directors (proposed sections 40u and 40v).
6. A director who fails to comply with an order to pay wages is guilty of an offence punishable by a fine of up to \$50,000 (proposed section 40y).
7. A director cannot contract out of liability under this Part but the employer may indemnify a director in respect of any proceeding to which the person is a party because the person is a director (proposed section 40z).
8. Nothing in this Part affects any civil remedy that a person may have against a director or affects any civil remedy that a director may have against any person (proposed section 40za).

### MISCELLANEOUS AMENDMENTS

9. Decisions of the Administrator of the Employee Wage Protection Program are not subject to the *Statutory Powers Procedure Act* (section 1 of the Bill, proposed subsection 2 (4) of the Act).
10. The monetary limit on the amount that an employment standards officer may award in various situations is removed (sections 2, 3 and 9 of the Bill, proposed sections 39c and 39f and clause 47 (1) (c) of the Act).
11. If an employer enters into an agreement for the settlement of wages or for the settlement of severance pay and the employer does not pay the agreed upon amount

## NOTE EXPLICATIVE

Le projet de loi modifie la *Loi sur les normes d'emploi* essentiellement à deux égards : dans la partie XII-A proposée de la Loi, est créé le Programme de protection des salaires des employés (article 5 du projet de loi); dans la partie XII-B proposée, les administrateurs sont rendus responsables du versement des salaires aux termes de la Loi (article 6 du projet de loi). Le projet de loi apporte en outre un certain nombre de modifications qui sont connexes à ses deux parties principales.

### PROGRAMME DE PROTECTION DES SALAIRES DES EMPLOYÉS

1. Selon le Programme, tout employé est admissible à une indemnité maximale de 5 000 \$ dans le cadre du Programme si son employeur omet de lui verser son salaire (articles 40b, 40e et 40i proposés).
2. Pour être admissibles à une indemnité, les employés qui sont titulaires de privilèges aux termes de la *Loi de 1983 sur le privilège dans l'industrie de la construction* doivent faire tous les efforts possibles pour conserver leurs privilèges (article 40f proposé).
3. L'administrateur du Programme est subrogé dans les droits de l'employé qui touche une indemnité. Si l'administrateur du Programme recouvre, au nom d'un employé, une somme supérieure à l'indemnité qui a été versée, le montant excédentaire est versé aux employés. Les employés trop largement indemnisés peuvent être tenus de rembourser le surplus au Programme (articles 40m, 40n et 40o proposés).

### RESPONSABILITÉ DES ADMINISTRATEURS

4. Aux termes de la partie XII-B proposée de la Loi (article 6 du projet de loi), les administrateurs des employeurs sont solidairement responsables envers les employés jusqu'à concurrence d'un montant équivalant au salaire de six mois et à l'indemnité de vacances de douze mois (article 40s proposé).
5. L'agent des normes d'emploi qui rend une ordonnance à l'égard d'un employeur en vue d'obtenir de celui-ci le versement d'un salaire peut en même temps rendre une ordonnance à l'égard de quelques-uns ou de l'ensemble des administrateurs de l'employeur. Si aucune ordonnance n'est rendue à l'égard des administrateurs au moment du prononcé de l'ordonnance à l'égard de l'employeur, l'agent des normes d'emploi peut par la suite rendre une ordonnance à l'égard des dirigeants et des administrateurs (articles 40u et 40v proposés).
6. L'administrateur qui ne se conforme pas à une ordonnance visant à obtenir le versement d'un salaire est coupable d'une infraction et passible d'une amende maximale de 50 000 \$ (article 40y proposé).
7. Un administrateur ne peut se libérer par contrat de la responsabilité qui lui échoit en vertu de la présente partie. Cependant, l'employeur peut l'indemniser relativement à toute instance à laquelle il est partie en sa qualité d'administrateur (article 40z proposé).
8. La présente partie est sans incidence sur les recours civils que quiconque peut exercer contre un administrateur ni sur ceux que les administrateurs peuvent exercer contre quiconque (article 40za proposé).

### MODIFICATIONS DIVERSES

9. Les décisions de l'administrateur du Programme de protection des salaires des employés ne sont pas assujetties à la *Loi sur l'exercice des compétences légales* (article 1 du projet de loi, paragraphe 2 (4) proposé de la Loi).
10. La limite pécuniaire applicable au montant qu'un agent des normes d'emploi peut attribuer dans divers cas est supprimée (articles 2, 3 et 9 du projet de loi, articles 39c et 39f et alinéa 47 (1) (c) proposés de la Loi).
11. Si un employeur conclut une entente en vue du règlement d'un salaire ou d'une indemnité de cessation d'emploi et qu'il ne verse pas le montant convenu ou s'il est

or it is demonstrated that the settlement was reached because of the employer's fraud or coercion, an employment standards officer may make an order for payment of the wages or severance pay (section 4 and subsection 9 (2) of the Bill, proposed subsections 40a (18) and (19) and 47 (1a) of the Act).

12. The Minister may appoint adjudicators to hold hearings into, among other things, complaints of employees over the failure of an employment standards officer to issue an order for outstanding wages (sections 7 and 10 of the Bill, proposed sections 42a and 49 of the Act).
13. The review hearing conducted by a referee is expedited (sections 11 and 12 of the Bill, proposed subsections 50 (5b) and 51 (1d) of the Act).

The Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French version of this Act.

prouvé qu'un règlement est intervenu par suite de fraude ou de contrainte de la part de l'employeur, l'agent des normes d'emploi peut rendre une ordonnance visant à obtenir le versement du salaire ou de l'indemnité de cessation d'emploi (article 4 et paragraphe 9 (2) du projet de loi, paragraphes 40a (18) et (19) et 47 (1a) proposés de la Loi).

12. Le ministre peut nommer des arbitres de griefs pour tenir des audiences notamment à l'égard des plaintes d'employés portant sur le défaut d'un agent des normes d'emploi de rendre une ordonnance relativement à des salaires impayés (articles 7 et 10 du projet de loi, articles 42a et 49 proposés de la Loi).
13. L'audience en révision présidée par un arbitre se déroule de façon expéditive (articles 11 et 12 du projet de loi, paragraphes proposés 50 (5b) et 51 (1d) de la Loi).

Le projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.





**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 2 (3) of the *Employment Standards Act* is amended by striking out “47 or 49” in the fourth line and substituting “39c, 39f, 47 or subsection 49 (1) or (2)”.

(2) Section 2 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 1, is further amended by adding the following subsection:

Non-applica-  
tion of  
Statutory  
Powers  
Procedure  
Act

(4) Part I of the *Statutory Powers Procedure Act* does not apply to the exercise of any power conferred on the Program Administrator under Part XII-A or to the exercise of any power by the Director under section 50.

**2.** Section 39c of the Act, as enacted by the Statutes of Ontario, 1983, chapter 55, section 2, is repealed and the following substituted:

Order of  
employment  
standards  
officer

**39c.** Where an employer contravenes a provision of this Part, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate in employment or to hire the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement or hiring for loss of earnings or other employment benefits.

**3.** Section 39f of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1, is repealed and the following substituted:

Employment  
standards  
officer may  
make order

**39f.** Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

**4.** Section 40a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by 1984, chapter 31, section 1 and 1987, chapter 30, section 5, is fur-

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 2 (3) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*») est modifié par substitution, à «47 or 49» à la quatrième ligne, de «39c, 39f, 47 or subsection 49 (1) or (2)».

(2) L'article 2 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 55 des Lois de l'Ontario de 1983, est modifié de nouveau par adjonction du paragraphe suivant :

**2** L'article 39c de la Loi, tel qu'il est adopté par l'article 2 du chapitre 55 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

**39c.** Where an employer contravenes a provision of this Part, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate in employment or to hire the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement or hiring for loss of earnings or other employment benefits.

**3** L'article 39f de la Loi, tel qu'il est adopté par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

**39f.** Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

**4** L'article 40a de la Loi, tel qu'il est adopté par l'article 2 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 1 du chapitre 31 des Lois de l'Ontario de 1984

ther amended by adding the following subsections:

et par l'article 5 du chapitre 30 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction des paragraphes suivants :

Failure to pay severance pay

(18) If a trade union has entered into a settlement agreement under subsection (15) and the employer does not pay the severance pay agreed to or the trade union demonstrates that the agreement was made as the result of fraud or coercion, an employment standards officer may make an order under section 47 as to what action, if any, the employer shall take and may make an order to compensate the employee for the severance pay that is owed.

Calculation of severance pay

(19) For purposes of subsection (18), the amount of severance pay an employee is entitled to in an order under section 47 is the amount as calculated under subsection (1c) or as negotiated in the collective agreement, whichever is the greater.

**5. The Act is amended by adding the following Part:**

**5 La Loi est modifiée par adjonction de la partie suivante :**

#### PART XII-A EMPLOYEE WAGE PROTECTION PROGRAM

Program established

**40b.**—(1) The Employee Wage Protection Program is hereby established.

Wages

(2) Except for the purposes of section 40h, when an employee is compensated by the Program, the wages for which the employee may receive compensation are,

- (a) regular wages, including commissions, overtime wages, vacation pay, holiday pay, termination pay and severance pay;
- (b) amounts that are deemed to be wages under subsection 33 (4);
- (c) compensation awarded under sections 39, 39c and 39f, clause 39k (3) (b) and section 39m in so far as the compensation is awarded for loss of earnings and for termination pay and severance pay; and
- (d) such additional payments as may be prescribed by regulation.

Vacation pay

(3) The vacation pay for which an employee may be compensated is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.

Holiday pay

(4) The amount of holiday pay for which an employee may be compensated from the Program is the greater of the amount for the holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.

Overtime wages

(5) The overtime wages for which an employee may be compensated are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.

Termination pay

(6) The amount of termination pay for which an employee may be compensated is the amount as provided by subsection 40 (7).

Severance pay

(7) The amount of severance pay for which an employee may be compensated is the amount as provided by subsection 40a (1c).

Program Administrator	<b>40c.</b> —(1) The Minister shall appoint a person to administer the Program.
Powers and duties	(2) The Program Administrator may exercise the powers conferred and shall perform the duties imposed on him or her under this Act.
Delegation of authority	(3) The Program Administrator may delegate any of his or her powers and duties to a person employed at the Ministry.
Legal proceedings	(4) The Program Administrator, in the name of his or her office, may bring any proceeding he or she considers necessary in relation to the Program and he or she may respond to any proceeding in that name.
Testimony in civil proceedings	<b>40d.</b> The Program Administrator and any person employed at the Ministry to whom his or her powers and duties have been delegated shall not be required to testify in a civil proceeding or in a proceeding before any other tribunal respecting information obtained in the discharge of the Program Administrator's duties under this Act.
Right to compensation	<b>40e.</b> —(1) An employee is eligible for compensation from the Program if, <ul style="list-style-type: none"> <li>(a) where the employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy and the claim has not been paid;</li> <li>(b) an employment standards officer has made an order that the employer pay wages to the employee, unless the employer has applied to have the order reviewed or the amount set out in the order has been paid;</li> <li>(c) an employment standards officer has made an order that <u>the directors pay wages to the employee, unless the employer has</u> applied to have the order reviewed or the amount set out in the order has been paid; or</li> <li>(d) a referee acting under section 39k, 50 or 51 or an adjudicator acting under subsection 49 (3) has made, amended or affirmed an order that wages are owed to the employee and the amount set out in the order has not been paid.</li> </ul>
Idem	(2) If an employee has been paid wages pursuant to an order and the employee is still owed wages under the order, the employee is eligible for compensation from the Program for the balance of wages owed to the limit of the recovery set out in section 40i.
Deemed order	(3) For purposes of this Act, any claim described in clause (1) (a) that has been verified by the Program Administrator is deemed to be an order.
Construction workers	<b>40f.</b> —(1) Despite section 40e, employees who are entitled to the protection of a lien under the <i>Construction Lien Act, 1983</i> are only eligible for compensation from the Program if they have used their best efforts to <u>preserve their lien claim</u> .
Idem	(2) If the Program Administrator is satisfied that such employees could not get sufficient information to <u>preserve their rights, were unable to preserve them or were unaware of their rights</u> , he or she may allow the employees to be compensated from the Program in the same manner as any other employee.
Idem	(3) If an employee who is entitled to the protection of a lien is compensated by the Program, the Program Administrator may require the employee to subrogate his or her rights in the lien to the Program Administrator, or may require the employee to



assign any judgment arising from the lien claim to the Program Administrator.

Settlement  
of severance  
pay

**40g.**—(1) If a trade union has entered into a settlement agreement with an employer over severance pay under subsection 40a (15), and the employer has paid the severance pay agreed to, an employee is not eligible for compensation for severance pay from the Program.

Exception

(2) Despite subsection (1), an employee is eligible for compensation for severance pay from the Program if an employment standards officer has made an order under subsection 47 (1) with respect to the severance pay and it has not been paid and the employer has not applied to have the order reviewed.

Settlement  
of wages

**40h.**—(1) An employee who has entered into a settlement or compromise of wages under clause 47 (1) (b) and who has received the amount agreed upon is not eligible for compensation from the Program for the wages that were the subject of the settlement or compromise.

Exception

(2) Despite subsection (1), an employee is eligible for compensation from the Program for the wages that were the subject of the settlement or compromise if an employment standards officer has made an order under subsection 47 (1) with respect to those wages and they have not been paid and the employer has not applied to have the order reviewed.

Maximum  
recovery

**40i.** The maximum amount of compensation, before deductions made under subsection 40j (3), that an employee may receive from the Program in respect of his or her employment with an employer is \$5,000 or such greater amount as is prescribed.

When  
compensa-  
tion ordered

**40j.**—(1) An employee who is eligible for compensation from the Program may be compensated when wages are due and owing and the Program Administrator has verified that the wages are owing and their amount.

Apportion-  
ment

(2) Upon approving compensation for the employee, the Program Administrator shall apportion the compensation in such manner as may be prescribed among the types of wages described in subsection 40b (2).

Deductions

(3) Upon approving compensation for the employee, the Program Administrator shall deduct from the compensation such amounts as are required to be deducted by a law of Canada or of Ontario.

Application  
for review

**40k.**—(1) If an employer has made an application for review under section 50, the Program Administrator may approve compensation only if the referee acting under section 50 affirms or amends the order such that the employer is found to be liable to pay the wages.

Idem

(2) If an employment standards officer has made a report that an employer may have failed to pay wages owed to an employee and the Director appoints a referee to hold a hearing under section 51, the Program Administrator may approve compensation from the Program only if the referee acting under section 51 orders that the employer pay the wages.

Payment  
while  
hearing  
continues

(3) If, during a hearing under section 51, the referee finds that the employees are entitled to wages or there is an undisputed portion of wages and he or she makes an interim order before the hearing is completed that those wages are owed, the Program Administrator may approve compensation from the Program in the amount of the interim order.



Disputes over amount owed	(4) If, during a hearing under section 50, the referee finds that there is an undisputed portion of wages to which the employees are entitled and he or she amends or affirms the order to the extent of those wages before the hearing is completed, the Program Administrator may approve compensation from the Program in the amount of the interim order.
Complaints under s. 49	<b>40L.</b> If an employee applies for a review under subsection 49 (2), the Program Administrator may approve compensation only if the adjudicator conducting the review makes an order that the employee is entitled to the wages or amends the order of the employment standards officer such that the employee is entitled to wages.
Recovery of overpayments	<b>40m.</b> If the compensation received from the Program exceeds the wages to which the employee was entitled, the Program Administrator, on the basis of the prescribed criteria, may seek repayment of the excess amount.
Excess recovery	<b>40n.</b> —(1) If the Program Administrator recovers from a person <u>liable to pay</u> an amount greater than the compensation that the employee received from the Program, he or she shall pay the excess amount to the employee.
Calculation of excess	(2) For purposes of this section, the excess amount is the amount the Program has recovered up to the amount owed under the order less the compensation already received <u>by the employee.</u> ↓
Subrogate to Program	<b>40o.</b> —(1) The Program Administrator is subrogated to all the rights of an employee who is compensated by the Program and may bring an action against the employer, or any other person who is liable, for administration costs as determined under clause 47 (1) (c) and for wages or may use the provisions of this Act to collect the amount.
Assignment of judgment	(2) The Program Administrator may accept an assignment of a judgment obtained by an employee in respect of wages as described in subsection 40b (2) and the Program Administrator may exercise the rights of the employee under the judgment. ▲
Interest	<b>40p.</b> Where money may be received by an employee under this Part, or may be collected from a person who is liable to pay, <u>interest</u> may be collected on the money as prescribed.
Limits on recovery	<b>40q.</b> If the employee and employer enter into an agreement for the purpose of increasing the amount of compensation the employee is eligible to recover from the Program, the Program Administrator may decide to limit the compensation to the amount as determined under the employment contract before the agreement was made. ↓
Agreements with federal government	<b>40qa.</b> The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada related to the payment of compensation under this Part and the administration of compensation if employees are entitled to compensation for wages under an Act of the Parliament of Canada.
Compensation not assignable	<b>40qb.</b> —(1) Except as provided in the <i>Support and Custody Orders Enforcement Act, 1985</i> and in this section, no amount payable as compensation under this Part is capable of being assigned.
Deemed assignment	(2) The Program Administrator may deem that an assignment is made if the prescribed conditions are met and the prescribed restrictions are not breached.

- Restriction (3) The number of deemed assignments respecting an employee that a person may present in any period may be restricted.
- Idem (4) Deemed assignments of compensation are limited to additional payments as described in clause 40b (2) (d).
- Idem (5) Deemed assignments may only be made to a prescribed person or to a person who is a member of a prescribed class of persons.

6. The Act is further amended by adding the following Part:

6 La Loi est modifiée en outre par adjonction de la partie suivante :

**PART XII-B**  
**LIABILITY OF DIRECTORS**

- Definition **40r.**—(1) In this Part, “director” means a director of a corporation and includes a shareholder who is a party to a unanimous shareholder agreement.
- Application (2) This Part applies to shareholders described in subsection (1) only to the extent that the directors are relieved, under subsection 108 (5) of the *Business Corporations Act, 1982* or subsection 146 (5) of the *Canada Business Corporations Act*, of their liability to pay wages to the employees of the corporation.
- Idem (3) This Part does not apply to directors of corporations to which Part III of the *Corporations Act* applies or to which the *Co-operative Corporations Act* applies.
- Idem (4) This Part does not apply to directors, or persons who perform functions similar to those of a director, of a college of a health profession or a group of health professions that is established or continued under an Act of the Legislature.
- Idem (5) This Part does not apply to directors of corporations,
- (a) that have been incorporated in another jurisdiction;
  - (b) that have objects that are similar to the objects of those types of corporations referred to in subsection (3); and
  - (c) that are carried on without the purpose of gain.
- Liability of directors **40s.**—(1) The directors of an employer are jointly and severally liable for wages as provided in this Part if,
- (a) where an employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer’s trustee in bankruptcy and the claim has not been paid;
  - (b) an employment standards officer has made an order that the employer is liable for wages, unless the amount set out in the order has been paid or the employer has applied to have it reviewed;
  - (c) an employment standards officer has made an order that a director is liable for wages, unless the amount set out in the order has been paid or the employer or the director has applied to have it reviewed; or
  - (d) an adjudicator acting under subsection 49 (3) or a referee acting under section 50 or 51 has made, amended or affirmed an order that the employer is liable for wages or that the directors are liable for wages and the amount set out in the order has not been paid.

Employer primarily responsible	(2) Despite subsection (1), the employer is primarily responsible for an employee's wages but proceedings against the employer under this Act do not have to be exhausted before proceedings may be commenced to collect wages <u>from directors</u> under this Part.
Wages	(3) The wages that directors are liable for under this Part are wages, not including termination pay and severance pay as they are provided for under this Act, under a contract of employment, or under a collective agreement and not including amounts that are deemed to be wages under this Act.
Vacation pay	(4) The vacation pay <u>that directors</u> are liable for is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.
Holiday pay	(5) The amount of holiday pay <u>that directors</u> are liable for is the greater of the amount for the holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.
Overtime wages	(6) The overtime wages <u>that directors</u> are liable for are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.
Directors' maximum liability	(7) The directors of an employer corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages, as described in subsection (3), that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under this Act and the regulations made under it or under any collective agreement made by the corporation.
Interest	(8) <u>Directors</u> are liable to pay interest as prescribed on outstanding wages for which they are liable.
Contribution from other directors	(9) A director who has satisfied a claim for wages is entitled to contribution in relation to the wages from other directors who are liable for the claim.
Liability for settlements	<b>40t.</b> —(1) <u>Directors</u> are liable to the Employee Wage Protection Program for compensation awarded under <u>section 40h</u> to the extent and in the circumstances described in this section.
Idem	(2) A director shall be liable for wages, as described in subsection 40s (3), to the extent of the settlement or compromise unless, <ul style="list-style-type: none"> <li>(a) at the time of or after the settlement or compromise, the employer becomes insolvent and the director knew or ought to have known of the insolvency when the settlement or compromise was agreed to; or</li> <li>(b) the settlement or compromise was made as the result of fraud or coercion on the part of the employer and the director knew or ought to have known of it.</li> </ul>
Determination of liability	(3) <u>A director</u> shall only be held liable for an amount in excess of the settlement or compromise when, on the grounds set out in subsection (2), an employment standards officer makes an order assessing such greater amount.



Maximum liability

(4) Nothing in this section increases the maximum liability of a director under this Act beyond the amounts set out in subsections 40s (7) and (8).

Orders:  
when order  
against  
employer

**40u.**—(1) If an employment standards officer makes an order against an employer under section 47 that wages be paid, he or she may make an order to pay wages, as described in subsection 40s (3), against some or all of the directors of the employer and may serve a copy of the order on them together with a copy of the order to pay against the employer.

Application  
for review

(2) Within fifteen days of service of the order or in such longer period as the Director may for special reasons allow, a director may apply under section 50 to have the order against them reviewed or to have a finding that he or she is a director reviewed.

Idem

(3) For the purposes of a review provided for in subsection (2), a reference in section 50 to “employer” shall be deemed to read as a reference to “director”.

Idem

(4) Despite subsection 50 (1), a director is not required to pay the wages to the Director in order to apply for a review under that subsection.

Effect of  
order

(5) If the directors do not comply with the order or do not apply to have it reviewed, the order becomes final and binding against those directors even though a review hearing is held to determine another person’s liability under this Act.

Orders:  
insolvent  
employer

(6) If an employer is insolvent and the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer’s trustee in bankruptcy, and the claim has not been paid, the employment standards officer may issue an order to pay wages as described in subsection 40s (3) against some or all of the directors and shall serve it on them.

Procedure

(7) Subsections (2), (3), (4) and (5) apply with necessary modifications to an order made under subsection (6).

Maximum liability

(8) Nothing in this section increases the maximum liability of a director beyond the amounts set out in subsections 40s (7) and (8).

Orders after  
order against  
employer

**40v.**—(1) An employment standards officer may make an order to pay wages as described in subsection 40s (3) against some or all of the directors of an employer who were not the subject of an order under subsection 40u (1) or (6), and may serve it on them,

- (a) after an employment standards officer has made an order against the employer under section 47 that wages be paid and they have not been paid and the employer has not applied to have the order reviewed;
- (b) after an employment standards officer has made an order against directors under subsection 40u (1) or (6) and the amount has not been paid and the employer or the directors have not applied to have it reviewed;
- (c) after an adjudicator has made, amended or affirmed an order against an employer under section 49 that an amount be paid and the amount has not been paid; or
- (d) after a referee acting under section 50 or 51 has made, affirmed or amended an order that the employer or the directors owe wages to the employee.



Review	(2) <u>A director</u> who is served under subsection (1) and who considers himself or herself aggrieved by the order may, within fifteen days of its service or such longer period as the Director may for special reasons allow, apply to have it or the finding that he or she is a <u>director</u> reviewed by way of a hearing.
Application for review	(3) An application for review shall be made in writing to the Director and shall specify the grounds for the application.
Hearing	(4) The review shall be heard as soon as is practicable by a referee selected by the Director from the panel of referees.
Parties	(5) <u>The directors</u> who are served, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to the application for review and, on the review, <u>the directors</u> served shall be the applicants and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents.
Idem	(6) On a review, the referee may substitute his or her findings for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order against any or all of <u>the directors</u> who were served.
Decision final and binding	(7) A decision of the referee under this section is final and binding upon the parties to the review and on such other parties as the referee may specify and is not subject to a review under section 50.
Maximum liability	(8) Nothing in this section increases the maximum liability of a director beyond the amounts set out in subsections 40s (7) and (8).
Payment to Director	<b>40va.</b> At the discretion of the Director, a director who is subject to an order under section 40u or 40v may be ordered to pay the wages in trust to the Director.
Limitation	<b>40w.—(1)</b> In the event of a conflict between the limitation period set out in subsection 63 (1) and a limitation period in any other Act, the limitation period in subsection 63 (1) applies unless the provision in the other Act states that it is to prevail over that subsection.
Assignment of judgment	(2) If a judgment has been obtained against the employer or a certificate has been filed under section 54, <u>a director</u> from whom the Program Administrator has recovered is entitled to an assignment of the judgment or certificate to the extent of the amount that has been recovered from <u>that director</u> after the Employee Wage Protection Program and the employees have fully recovered the wages that were owed.
Service	<b>40x.—(1)</b> <u>A director</u> may be served by prepaid registered mail addressed to <u>his or her</u> last known address or may be served personally.
Appointment of adjudicator	(2) If the document that was mailed under subsection (1) is returned and <u>the director</u> is not served personally, the Director may appoint an adjudicator to consider the manner of service.
Powers of adjudicator	(3) The adjudicator may order that service be effected in such manner as he or she considers appropriate in the circumstances.
Offence	<b>40y.</b> Any <u>director</u> who fails to comply with an order of an employment standards officer and who has not applied for a review of it or who fails to comply with an order of an adjudicator or a referee is guilty of an offence and is liable on conviction to a fine not exceeding \$50,000.

No  
contracting

**40z.**—(1) No provision in a contract, in the articles of incorporation or the by-laws of a corporation or in a resolution of a corporation relieves a director from the duty to act according to this Act or relieves him or her from liability for breach of it.

Indemnifica-  
tion of direc-  
tors

(2) An employer may indemnify a director, a former director and the heirs or legal representatives of a director or former director against all costs, charges and expenses, including an amount paid to satisfy an order under this Act or paid in respect of a certificate issued under this Act, reasonably incurred by the director in respect of any civil or administrative action or proceeding to which he or she is a party by reason of being or having been a director of the employer if,

- (a) he or she has acted honestly and in good faith with a view to the best interests of the employer; and
- (b) in the case of a proceeding or action that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

Civil  
remedies  
protected

**40za.** No civil remedy that a person may have against a director or that a director may have against any person is suspended or affected by this Part.

**7. The Act is further amended by adding the following section:**

**7 La Loi est modifiée en outre par adjonction de l'article suivant :**

Appointment  
of adjudica-  
tors

**42a.**—(1) The Minister shall appoint such persons to be adjudicators as he or she considers necessary for the purposes of this Act.

Remunera-  
tion

(2) An adjudicator shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

**8. The Act is further amended by adding the following section:**

**8 La Loi est modifiée en outre par adjonction de l'article suivant :**

Wages

**46a.** Despite subclause 1 (p) (iv), payments described in clause 40b (2) (d) shall, for the purposes of this Part, be deemed to be wages.

**9.—(1)** Clause 47 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3 and amended by 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is repealed and the following substituted:

**9 (1)** L'alinéa 47 (1) (c) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

- (c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and in addition such order shall provide for payment, by the employer to the Director, of administration costs in the amount of 10 per cent of the wages or \$100, whichever is the greater.

(2) Section 47 of the Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 3, 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is further amended by adding the following subsections:

(2) L'article 47 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981, par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des paragraphes suivants :

Failure to  
pay sever-  
ance pay

- (1a) If an employee has agreed to a compromise or settlement under clause (1) (b) and the employer does not pay the wages agreed upon or the employee demonstrates that the compromise or settlement was entered into as the result of the employer's

fraud or coercion, an employment standards officer may issue an order under subsection (1).

Effect of  
order

(7) If an employer fails to apply under section 50 for a review of an order issued by an employment standards officer, the order becomes final and binding against the employer even though a review hearing is held to determine another person's liability under this Act.

**10.**—(1) Subsection 49 (1) of the Act is amended by striking out “under” in the fourth line and substituting “or has found that the employee has no other entitlements or that there are no actions which the employer is to do or is to refrain from doing in order to be in compliance with”.

(2) Subsection 49 (2) of the Act is repealed and the following substituted:

Review of  
refusal to  
issue order

(2) An employee who considers himself or herself aggrieved by the refusal to issue an order to an employer or by the issuance of an order that in his or her view does not include all of the wages or other entitlements to which he or she is entitled may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection (1) or the date of the issue of the order or such longer period as the Director may for special reasons allow for a review of the refusal or of the amount of the order.

Appointment  
of adjudi-  
cator

(3) Upon receipt of an application for review, the Director may appoint an adjudicator who shall hold a hearing.

Parties to  
hearing

(4) The employee who applied for the review, the employment standards officer whose order or refusal to make an order is the subject of the review and such other persons, including the employer and directors of the employer, as the adjudicator may specify are parties to the review hearing.

Power of  
adjudicator

(5) The adjudicator who is conducting the hearing may with necessary modifications exercise the powers conferred on an employment standards officer under this Act and may make an order with respect to the refusal or an order to amend, rescind or affirm the order of the employment standards officer.

Notice

(6) When the adjudicator makes an order or amends, rescinds or affirms an order of the employment standards officer, he or she shall notify the employee and any other person affected by it of the order by prepaid letter addressed to the person's last known address.

Decision of  
adjudicator

(7) The order of the adjudicator is not subject to a review under section 50 and is final and binding on the parties.

**11.**—(1) Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3, 1988, chapter 7, section 2 and 1991, chapter 5, section 17, is further amended by inserting after “39m” in the amendment of 1991 “40u”.

(2) Subsection 50 (3) of the Act is repealed and the following substituted:

Hearing

(3) The Director shall select a referee from the panel of referees to hear the review.

**10** (1) Le paragraphe 49 (1) de la Loi est modifié par substitution, à «under» à la quatrième ligne, de «or has found that the employee has no other entitlements or that there are no actions which the employer is to do or is to refrain from doing in order to be in compliance with».

(2) Le paragraphe 49 (2) de la Loi est abrogé et remplacé par ce qui suit :

**11** (1) Le paragraphe 50 (1) de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983, par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988 et par l'article 17 du chapitre 5 des Lois de l'Ontario de 1991, soit modifié de nouveau par insertion, après «39m» dans la modification de 1991, de «40u».

(2) Le paragraphe 50 (3) de la Loi est abrogé et remplacé par ce qui suit :



(3) Section 50 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by adding the following subsections:

(3) L'article 50 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié de nouveau par adjonction des paragraphes suivants :

Interest

(1a) An employer who has applied for a review of the order is liable for interest as prescribed on any wages that are found to be owing and such interest shall be paid according to the decision of the referee.

Information  
on entitlement  
to wages

(5a) If an employer applies for a review, the employer shall provide the facts supporting why the entitlement to the wages and why other directions or entitlements ordered, if any, are being challenged for each employee to the Director within fifteen days of applying for the review or such longer period as the Director may for special reasons allow, unless the Director waives this requirement in whole or in part.

Expedited  
hearing

(5b) Not later than forty-five days after the review was applied for, the referee shall, before considering any substantive issue, commence the hearing on the employee's entitlement to wages.

Extensions

(5c) The referee may allow an extension of the period set out in subsection (5b) if an extension has been given under subsection (5a) or for other special reasons.

Interim  
order

(5d) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages, he or she shall affirm or amend the order of the employment standards officer or make such other order as he or she considers appropriate to the extent of the undisputed portion of the wages before the hearing is completed.

Decision of  
referee

(5e) The referee shall issue his or her decision within ninety days after the first day of hearing, unless a referee designated by the Minister grants an extension for special reasons.

**12. Section 51 of the Act is amended by adding the following subsections:**

**12 L'article 51 de la Loi est modifié par adjonction des paragraphes suivants :**

Deemed  
employers

(1a) Directors of an employer that is the subject of a report under subsection (1) have all the rights and defences of an employer for the purposes of the review and are bound by this section in like manner as the employer, except that their liability is limited to the amounts set out in subsections 40s (7) and (8) and they may only be ordered to pay wages as described in subsection 40s (3).

Idem

(1b) For purposes of a hearing provided for under subsection (1), a reference to "employer" shall be deemed to read as a reference to "director".

Information  
on entitlement  
for wages

(1c) An employer who is the subject of a report under subsection (1) shall provide the facts supporting why any entitlement to wages and other possible entitlements are disputed for each employee to the Director within fifteen days of the Director appointing a referee or such longer period as the referee may for special reasons allow, unless the referee waives this requirement in whole or in part.

Expedited  
hearing

(1d) Not later than forty-five days after the Director appoints the referee or such longer period as the referee may for special reasons allow and before considering any other substantive issue, the referee shall commence the hearing on the employee's entitlement to wages.



Interim decision

(1e) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages or that certain wages are owed, he or she shall make an interim order with respect to such wages.

Decision of referee

(1f) The referee shall issue his or her decision within ninety days after the first day of hearing, unless a referee designated by the Minister grants an extension for special reasons.

**13. Section 52 of the Act is repealed and the following substituted:**

**13 L'article 52 de la Loi est abrogé et remplacé par ce qui suit :**

Payment to Director

**52.—**(1) Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act or to a director who is liable to make any payment under this Act, the Director may, by registered letter or letter served personally, demand that the person pay the money otherwise payable to the employer or to the director in whole or in part to the Director in trust on account of liability under this Act.

Receipt of Director

(2) The receipt of the Director for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability to pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act or to a director who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he or she was required under this section to pay, whichever is the lesser.

**14.—**(1) Subsection 54 (1) of the Act is amended by adding after "employees" in the third line "or requiring a director to pay any money to the Director for or on behalf of an employee or employees".

**14** (1) Le paragraphe 54 (1) de la Loi est modifié par insertion, après «employees» à la troisième ligne, de «or requiring a director to pay any money to the Director for or on behalf of an employee or employees».

(2) Subsection 54 (2) of the Act is repealed and the following substituted:

(2) Le paragraphe 54 (2) de la Loi est abrogé et remplacé par ce qui suit :

Copy of certificate

(2) The Director shall send a copy of the certificate to the employer or to the director, as the case may be, by registered mail and shall advise the employer or the director of the date the certificate was filed.

**15. Section 58 of the Act is amended by adding the following subsection:**

**15** L'article 58 de la Loi est modifié par adjonction du paragraphe suivant :

Offence

(2) No person shall provide false or misleading information under this Act.

**16. Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7 and 1990, chapter 26, section 4, is further amended by adding the following clauses:**

**16** Le paragraphe 65 (1) de la Loi, tel qu'il est modifié par l'article 7 du chapitre 30 des Lois de l'Ontario de 1987 et par l'article 4 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des alinéas suivants :

- (rb) prescribing other payments that are wages for purposes of subsection 40b (2);
- (rc) establishing criteria for seeking repayment for excess compensation for purposes of section 40m;
- (rd) governing the payment of interest under any or all of sections 40p, 40s and 50;

- (re) providing for and governing the consolidation of hearings under this Act;
- (rf) providing for the manner of apportioning compensation under subsection 40j (2);
- ➡ (rg) prescribing a maximum amount of compensation under section 40i;
- (rh) prescribing persons or classes of persons for purposes of section 40qb;
- (ri) governing the conditions that must be met before there is a deemed assignment of compensation under section 40qb and the restrictions that may be placed on such assignments.

Transition

**17.—**(1) An employee who would be eligible for compensation from the Employee Wage Protection Program under subsection 40e (1) of the *Employment Standards Act*, as enacted by section 5 of this Act, may be compensated,

- (a) when, on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, wages, excluding termination pay and severance pay, become due and owing;
- (b) when, due to a lay-off that commenced on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, the employee is terminated or is deemed to be terminated and termination pay or severance pay is due and owing; and
- (c) when a termination occurs on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force and termination pay or severance pay is due and owing.

Idem

(2) If an order is issued with respect to wages described in subsection (1), the order shall not exceed the sum of,

- (a) \$4,000 with respect to any wages other than the employee's severance pay and compensation awarded under section 39;
- (b) the amount of the employee's severance pay, if any; and
- (c) the amount of compensation awarded under section 39, if any.

Idem

(3) For purposes of this section, any claim described in clause 40e (1) (a) of the *Employment Standards Act*, as made by sec-

Disposition  
transitoire

**17** (1) L'employé qui serait admissible à une indemnité dans le cadre du Programme de protection des salaires des employés aux termes du paragraphe 40e (1) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est adopté par l'article 5 de la présente loi, peut être indemnisé dans les cas suivants :

- a) lorsque, le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, un salaire, à l'exception des indemnités de licenciement et de cessation d'emploi, devient exigible;
- b) lorsque, en raison d'une mise à pied ayant pris effet le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, l'employé est licencié ou est réputé l'être et qu'une indemnité de licenciement ou de cessation d'emploi lui est due;
- c) lorsque son licenciement survient le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, et qu'une indemnité de licenciement ou de cessation d'emploi lui est due.

Idem

(2) Dans le cas où est rendue une ordonnance relativement au salaire visé au paragraphe (1), l'indemnité prévue par l'ordonnance ne dépasse pas la somme des montants suivants :

- a) 4 000 \$ au titre de tout salaire, à l'exception de l'indemnité de cessation d'emploi de l'employé et de l'indemnité qui lui est attribuée en vertu de l'article 39;
- b) le montant de l'indemnité de cessation d'emploi de l'employé, le cas échéant;
- c) le montant de l'indemnité qui lui est attribuée en vertu de l'article 39, le cas échéant.

Idem

(3) Pour l'application du présent article, toute demande visée à l'alinéa 40e (1) (a) de la loi intitulée *Employment Standards Act* («*Loi*

tion 5 of this Act, that has been verified by the Program Administrator is deemed to be an order.

Idem

(4) Despite subsection (2), the maximum amount of compensation that an employee may receive under this section is \$5,000.

Commence-  
ment

**18.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**19.** The short title of this Act is the *Employment Standards Amendment Act (Employee Wage Protection Program), 1991*.

*sur les normes d'emploi*)), tel qu'il est adopté par l'article 5 de la présente loi, et qu'a vérifiée l'administrateur du Programme est réputée une ordonnance.

Idem

(4) Malgré le paragraphe (2), l'indemnité maximale qu'un employé peut recevoir en vertu du présent article est de 5 000 \$.

Entrée en  
vigueur

**18** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

**19** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les normes d'emploi (Programme de protection des salaires des employés)*.





Bill 70

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 70**

(Chapter 16  
*Statutes of Ontario, 1991*)

**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**The Hon. B. Mackenzie**  
Minister of Labour

1st Reading	April 11th, 1991
2nd Reading	June 19th, 1991
3rd Reading	October 15th, 1991
Royal Assent	October 16th, 1991

Projet de loi 70

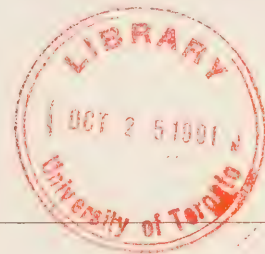
1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Projet de loi 70**

(Chapitre 16  
*Lois de l'Ontario de 1991*)

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

**L'honorable B. Mackenzie**  
Ministre du Travail



1 <sup>re</sup> lecture	11 avril 1991
2 <sup>e</sup> lecture	19 juin 1991
3 <sup>e</sup> lecture	15 octobre 1991
sanction royale	16 octobre 1991



**An Act to amend the  
Employment Standards Act to  
provide for an Employee Wage  
Protection Program and to make  
certain other amendments**

**Loi portant modification de la Loi  
sur les normes d'emploi par création  
d'un Programme de protection des  
salaires des employés et par adoption  
de certaines autres modifications**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 2 (3) of the *Employment Standards Act* is amended by striking out “47 or 49” in the fourth line and substituting “39c, 39f, 47 or subsection 49 (1) or (2)”.

(2) Section 2 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 1, is further amended by adding the following subsection:

Non-applica-  
tion of  
Statutory  
Powers  
Procedure  
Act

(4) Part I of the *Statutory Powers Procedure Act* does not apply to the exercise of any power conferred on the Program Administrator under Part XII-A or to the exercise of any power by the Director under section 50.

**2.** Section 39c of the Act, as enacted by the Statutes of Ontario, 1983, chapter 55, section 2, is repealed and the following substituted:

Order of  
employment  
standards  
officer

**39c.** Where an employer contravenes a provision of this Part, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate in employment or to hire the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement or hiring for loss of earnings or other employment benefits.

**3.** Section 39f of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1, is repealed and the following substituted:

Employment  
standards  
officer may  
make order

**39f.** Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

**4.** Section 40a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 2 and amended by 1984, chapter 31, section 1 and 1987, chapter 30, section 5, is fur-

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 2 (3) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*») est modifié par substitution, à «47 or 49» à la quatrième ligne, de «39c, 39f, 47 or subsection 49 (1) or (2)».

(2) L'article 2 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 55 des Lois de l'Ontario de 1983, est modifié de nouveau par adjonction du paragraphe suivant :

**2** L'article 39c de la Loi, tel qu'il est adopté par l'article 2 du chapitre 55 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

**39c.** Where an employer contravenes a provision of this Part, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with this Part and may make an order to reinstate in employment or to hire the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement or hiring for loss of earnings or other employment benefits.

**3** L'article 39f de la Loi, tel qu'il est adopté par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

**39f.** Where an employer dismisses an employee who refuses any work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act*, an employment standards officer may order the employer to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

**4** L'article 40a de la Loi, tel qu'il est adopté par l'article 2 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 1 du chapitre 31 des Lois de l'Ontario de 1984

ther amended by adding the following subsections:

et par l'article 5 du chapitre 30 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction des paragraphes suivants :

Failure to  
pay sever-  
ance pay

(18) If a trade union has entered into a settlement agreement under subsection (15) and the employer does not pay the severance pay agreed to or the trade union demonstrates that the agreement was made as the result of fraud or coercion, an employment standards officer may make an order under section 47 as to what action, if any, the employer shall take and may make an order to compensate the employee for the severance pay that is owed.

Calculation  
of severance  
pay

(19) For purposes of subsection (18), the amount of severance pay an employee is entitled to in an order under section 47 is the amount as calculated under subsection (1c) or as negotiated in the collective agreement, whichever is the greater.

**5. The Act is amended by adding the following Part:**

**5 La Loi est modifiée par adjonction de la partie suivante :**

#### PART XII-A EMPLOYEE WAGE PROTECTION PROGRAM

Program  
established

**40b.**—(1) The Employee Wage Protection Program is hereby established.

Wages

(2) Except for the purposes of section 40h, when an employee is compensated by the Program, the wages for which the employee may receive compensation are,

- (a) regular wages, including commissions, overtime wages, vacation pay, holiday pay, termination pay and severance pay;
- (b) amounts that are deemed to be wages under subsection 33 (4);
- (c) compensation awarded under sections 39, 39c and 39f, clause 39k (3) (b) and section 39m in so far as the compensation is awarded for loss of earnings and for termination pay and severance pay; and
- (d) such additional payments as may be prescribed by regulation.

Vacation pay

(3) The vacation pay for which an employee may be compensated is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.

Holiday pay

(4) The amount of holiday pay for which an employee may be compensated from the Program is the greater of the amount for the holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.

Overtime  
wages

(5) The overtime wages for which an employee may be compensated are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.

Termination  
pay

(6) The amount of termination pay for which an employee may be compensated is the amount as provided by subsection 40 (7).

Severance  
pay

(7) The amount of severance pay for which an employee may be compensated is the amount as provided by subsection 40a (1c).



Program Administrator	<b>40c.</b> —(1) The Minister shall appoint a person to administer the Program.
Powers and duties	(2) The Program Administrator may exercise the powers conferred and shall perform the duties imposed on him or her under this Act.
Delegation of authority	(3) The Program Administrator may delegate any of his or her powers and duties to a person employed at the Ministry.
Legal proceedings	(4) The Program Administrator, in the name of his or her office, may bring any proceeding he or she considers necessary in relation to the Program and he or she may respond to any proceeding in that name.
Testimony in civil proceedings	<b>40d.</b> The Program Administrator and any person employed at the Ministry to whom his or her powers and duties have been delegated shall not be required to testify in a civil proceeding or in a proceeding before any other tribunal respecting information obtained in the discharge of the Program Administrator's duties under this Act.
Right to compensation	<b>40e.</b> —(1) An employee is eligible for compensation from the Program if, <ul style="list-style-type: none"> <li>(a) where the employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy and the claim has not been paid;</li> <li>(b) an employment standards officer has made an order that the employer pay wages to the employee, unless the employer has applied to have the order reviewed or the amount set out in the order has been paid;</li> <li>(c) an employment standards officer has made an order that the directors pay wages to the employee, unless the employer has applied to have the order reviewed or the amount set out in the order has been paid; or</li> <li>(d) a referee acting under section 39k, 50 or 51 or an adjudicator acting under subsection 49 (3) has made, amended or affirmed an order that wages are owed to the employee and the amount set out in the order has not been paid.</li> </ul>
Idem	(2) If an employee has been paid wages pursuant to an order and the employee is still owed wages under the order, the employee is eligible for compensation from the Program for the balance of wages owed to the limit of the recovery set out in section 40i.
Deemed order	(3) For purposes of this Act, any claim described in clause (1) (a) that has been verified by the Program Administrator is deemed to be an order.
Construction workers	<b>40f.</b> —(1) Despite section 40e, employees who are entitled to the protection of a lien under the <i>Construction Lien Act, 1983</i> are only eligible for compensation from the Program if they have used their best efforts to preserve their lien claim.
Idem	(2) If the Program Administrator is satisfied that such employees could not get sufficient information to preserve their rights, were unable to preserve them or were unaware of their rights, he or she may allow the employees to be compensated from the Program in the same manner as any other employee.
Idem	(3) If an employee who is entitled to the protection of a lien is compensated by the Program, the Program Administrator may require the employee to subrogate his or her rights in the lien to the Program Administrator, or may require the employee to

assign any judgment arising from the lien claim to the Program Administrator.

Settlement  
of severance  
pay

**40g.**—(1) If a trade union has entered into a settlement agreement with an employer over severance pay under subsection 40a (15), and the employer has paid the severance pay agreed to, an employee is not eligible for compensation for severance pay from the Program.

Exception

(2) Despite subsection (1), an employee is eligible for compensation for severance pay from the Program if an employment standards officer has made an order under subsection 47 (1) with respect to the severance pay and it has not been paid and the employer has not applied to have the order reviewed.

Settlement  
of wages

**40h.**—(1) An employee who has entered into a settlement or compromise of wages under clause 47 (1) (b) and who has received the amount agreed upon is not eligible for compensation from the Program for the wages that were the subject of the settlement or compromise.

Exception

(2) Despite subsection (1), an employee is eligible for compensation from the Program for the wages that were the subject of the settlement or compromise if an employment standards officer has made an order under subsection 47 (1) with respect to those wages and they have not been paid and the employer has not applied to have the order reviewed.

Maximum  
recovery

**40i.** The maximum amount of compensation, before deductions made under subsection 40j (3), that an employee may receive from the Program in respect of his or her employment with an employer is \$5,000 or such greater amount as is prescribed.

When  
compensa-  
tion ordered

**40j.**—(1) An employee who is eligible for compensation from the Program may be compensated when wages are due and owing and the Program Administrator has verified that the wages are owing and their amount.

Apportion-  
ment

(2) Upon approving compensation for the employee, the Program Administrator shall apportion the compensation in such manner as may be prescribed among the types of wages described in subsection 40b (2).

Deductions

(3) Upon approving compensation for the employee, the Program Administrator shall deduct from the compensation such amounts as are required to be deducted by a law of Canada or of Ontario.

Application  
for review

**40k.**—(1) If an employer has made an application for review under section 50, the Program Administrator may approve compensation only if the referee acting under section 50 affirms or amends the order such that the employer is found to be liable to pay the wages.

Idem

(2) If an employment standards officer has made a report that an employer may have failed to pay wages owed to an employee and the Director appoints a referee to hold a hearing under section 51, the Program Administrator may approve compensation from the Program only if the referee acting under section 51 orders that the employer pay the wages.

Payment  
while  
hearing  
continues

(3) If, during a hearing under section 51, the referee finds that the employees are entitled to wages or there is an undisputed portion of wages and he or she makes an interim order before the hearing is completed that those wages are owed, the Program Administrator may approve compensation from the Program in the amount of the interim order.

Disputes  
over amount  
owed

(4) If, during a hearing under section 50, the referee finds that there is an undisputed portion of wages to which the employees

are entitled and he or she amends or affirms the order to the extent of those wages before the hearing is completed, the Program Administrator may approve compensation from the Program in the amount of the interim order.

Complaints  
under s. 49

**40L.** If an employee applies for a review under subsection 49 (2), the Program Administrator may approve compensation only if the adjudicator conducting the review makes an order that the employee is entitled to the wages or amends the order of the employment standards officer such that the employee is entitled to wages.

Recovery of  
overpay-  
ments

**40m.** If the compensation received from the Program exceeds the wages to which the employee was entitled, the Program Administrator, on the basis of the prescribed criteria, may seek repayment of the excess amount.

Excess  
recovery

**40n.**—(1) If the Program Administrator recovers from a person liable to pay an amount greater than the compensation that the employee received from the Program, he or she shall pay the excess amount to the employee.

Calculation  
of excess

(2) For purposes of this section, the excess amount is the amount the Program has recovered up to the amount owed under the order less the compensation already received by the employee.

Subrogate to  
Program

**40o.**—(1) The Program Administrator is subrogated to all the rights of an employee who is compensated by the Program and may bring an action against the employer, or any other person who is liable, for administration costs as determined under clause 47 (1) (c) and for wages or may use the provisions of this Act to collect the amount.

Assignment  
of judgment

(2) The Program Administrator may accept an assignment of a judgment obtained by an employee in respect of wages as described in subsection 40b (2) and the Program Administrator may exercise the rights of the employee under the judgment.

Interest

**40p.** Where money may be received by an employee under this Part, or may be collected from a person who is liable to pay, interest may be collected on the money as prescribed.

Limits on  
recovery

**40q.** If the employee and employer enter into an agreement for the purpose of increasing the amount of compensation the employee is eligible to recover from the Program, the Program Administrator may decide to limit the compensation to the amount as determined under the employment contract before the agreement was made.

Agreements  
with federal  
government

**40qa.** The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with the Government of Canada related to the payment of compensation under this Part and the administration of compensation if employees are entitled to compensation for wages under an Act of the Parliament of Canada.

Compensa-  
tion not  
assignable

**40qb.**—(1) Except as provided in the *Support and Custody Orders Enforcement Act, 1985* and in this section, no amount payable as compensation under this Part is capable of being assigned.

Deemed  
assignment

(2) The Program Administrator may deem that an assignment is made if the prescribed conditions are met and the prescribed restrictions are not breached.

Restriction

(3) The number of deemed assignments respecting an employee that a person may present in any period may be restricted.



- Idem (4) Deemed assignments of compensation are limited to additional payments as described in clause 40b (2) (d).
- Idem (5) Deemed assignments may only be made to a prescribed person or to a person who is a member of a prescribed class of persons.

**6. The Act is further amended by adding the following Part:**

**6 La Loi est modifiée en outre par adjonction de la partie suivante :**

**PART XII-B  
LIABILITY OF DIRECTORS**

- Definition **40r.**—(1) In this Part, “director” means a director of a corporation and includes a shareholder who is a party to a unanimous shareholder agreement.
- Application (2) This Part applies to shareholders described in subsection (1) only to the extent that the directors are relieved, under subsection 108 (5) of the *Business Corporations Act*, 1982 or subsection 146 (5) of the *Canada Business Corporations Act*, of their liability to pay wages to the employees of the corporation.
- Idem (3) This Part does not apply to directors of corporations to which Part III of the *Corporations Act* applies or to which the *Co-operative Corporations Act* applies.
- Idem (4) This Part does not apply to directors, or persons who perform functions similar to those of a director, of a college of a health profession or a group of health professions that is established or continued under an Act of the Legislature.
- Idem (5) This Part does not apply to directors of corporations,  
(a) that have been incorporated in another jurisdiction;  
(b) that have objects that are similar to the objects of those types of corporations referred to in subsection (3); and  
(c) that are carried on without the purpose of gain.
- Liability of directors **40s.**—(1) The directors of an employer are jointly and severally liable for wages as provided in this Part if,  
(a) where an employer is insolvent, the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer’s trustee in bankruptcy and the claim has not been paid;  
(b) an employment standards officer has made an order that the employer is liable for wages, unless the amount set out in the order has been paid or the employer has applied to have it reviewed;  
(c) an employment standards officer has made an order that a director is liable for wages, unless the amount set out in the order has been paid or the employer or the director has applied to have it reviewed; or  
(d) an adjudicator acting under subsection 49 (3) or a referee acting under section 50 or 51 has made, amended or affirmed an order that the employer is liable for wages or that the directors are liable for wages and the amount set out in the order has not been paid.
- Employer primarily responsible (2) Despite subsection (1), the employer is primarily responsible for an employee’s wages but proceedings against the employer under this Act do not have to be exhausted before pro-



	ceedings may be commenced to collect wages from directors under this Part.
Wages	(3) The wages that directors are liable for under this Part are wages, not including termination pay and severance pay as they are provided for under this Act, under a contract of employment, or under a collective agreement and not including amounts that are deemed to be wages under this Act.
Vacation pay	(4) The vacation pay that directors are liable for is the greater of the minimum vacation pay provided in subsection 29 (2) and the amount contractually agreed to by the employer and the employee or his or her agent.
Holiday pay	(5) The amount of holiday pay that directors are liable for is the greater of the amount for the holidays at the rate as determined under this Act and the regulations and the amount for the holidays at the rate as contractually agreed to by the employer and the employee or his or her agent.
Overtime wages	(6) The overtime wages that directors are liable for are the greater of the amount of overtime pay provided in section 25 and the amount contractually agreed to by the employer and the employee or his or her agent.
Directors' maximum liability	(7) The directors of an employer corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages, as described in subsection (3), that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under this Act and the regulations made under it or under any collective agreement made by the corporation.
Interest	(8) Directors are liable to pay interest as prescribed on outstanding wages for which they are liable.
Contribution from other directors	(9) A director who has satisfied a claim for wages is entitled to contribution in relation to the wages from other directors who are liable for the claim.
Liability for settlements	<b>40t.</b> —(1) Directors are liable to the Employee Wage Protection Program for compensation awarded under section 40h to the extent and in the circumstances described in this section.
Idem	(2) A director shall be liable for wages, as described in subsection 40s (3), to the extent of the settlement or compromise unless, <ul style="list-style-type: none"> <li>(a) at the time of or after the settlement or compromise, the employer becomes insolvent and the director knew or ought to have known of the insolvency when the settlement or compromise was agreed to; or</li> <li>(b) the settlement or compromise was made as the result of fraud or coercion on the part of the employer and the director knew or ought to have known of it.</li> </ul>
Determination of liability	(3) A director shall only be held liable for an amount in excess of the settlement or compromise when, on the grounds set out in subsection (2), an employment standards officer makes an order assessing such greater amount.
Maximum liability	(4) Nothing in this section increases the maximum liability of a director under this Act beyond the amounts set out in subsections 40s (7) and (8).
Orders: when order against employer	<b>40u.</b> —(1) If an employment standards officer makes an order against an employer under section 47 that wages be paid, he or she may make an order to pay wages, as described in subsection 40s (3), against some or all of the directors of the employer and

may serve a copy of the order on them together with a copy of the order to pay against the employer.

Application  
for review

(2) Within fifteen days of service of the order or in such longer period as the Director may for special reasons allow, a director may apply under section 50 to have the order against them reviewed or to have a finding that he or she is a director reviewed.

Idem

(3) For the purposes of a review provided for in subsection (2), a reference in section 50 to "employer" shall be deemed to read as a reference to "director".

Idem

(4) Despite subsection 50 (1), a director is not required to pay the wages to the Director in order to apply for a review under that subsection.

Effect of  
order

(5) If the directors do not comply with the order or do not apply to have it reviewed, the order becomes final and binding against those directors even though a review hearing is held to determine another person's liability under this Act.

Orders:  
insolvent  
employer

(6) If an employer is insolvent and the employee has caused a claim for unpaid wages to be filed with the receiver appointed by a court with respect to the employer or with the employer's trustee in bankruptcy, and the claim has not been paid, the employment standards officer may issue an order to pay wages as described in subsection 40s (3) against some or all of the directors and shall serve it on them.

Procedure

(7) Subsections (2), (3), (4) and (5) apply with necessary modifications to an order made under subsection (6).

Maximum  
liability

(8) Nothing in this section increases the maximum liability of a director beyond the amounts set out in subsections 40s (7) and (8).

Orders after  
order against  
employer

**40v.**—(1) An employment standards officer may make an order to pay wages as described in subsection 40s (3) against some or all of the directors of an employer who were not the subject of an order under subsection 40u (1) or (6), and may serve it on them,

(a) after an employment standards officer has made an order against the employer under section 47 that wages be paid and they have not been paid and the employer has not applied to have the order reviewed;

(b) after an employment standards officer has made an order against directors under subsection 40u (1) or (6) and the amount has not been paid and the employer or the directors have not applied to have it reviewed;

(c) after an adjudicator has made, amended or affirmed an order against an employer under section 49 that an amount be paid and the amount has not been paid; or

(d) after a referee acting under section 50 or 51 has made, affirmed or amended an order that the employer or the directors owe wages to the employee.

Review

(2) A director who is served under subsection (1) and who considers himself or herself aggrieved by the order may, within fifteen days of its service or such longer period as the Director may for special reasons allow, apply to have it or the finding that he or she is a director reviewed by way of a hearing.

Application  
for review

(3) An application for review shall be made in writing to the Director and shall specify the grounds for the application.

Hearing

(4) The review shall be heard as soon as is practicable by a referee selected by the Director from the panel of referees.

Parties	(5) The directors who are served, the employment standards officer from whose order the application for review is taken and such other persons as the referee may specify are parties to the application for review and, on the review, the directors served shall be the applicants and the employment standards officer and such other persons specified by the referee, if any, shall be the respondents.
Idem	(6) On a review, the referee may substitute his or her findings for those of the employment standards officer who issued the order being reviewed and may amend, rescind or affirm the order against any or all of the directors who were served.
Decision final and binding	(7) A decision of the referee under this section is final and binding upon the parties to the review and on such other parties as the referee may specify and is not subject to a review under section 50.
Maximum liability	(8) Nothing in this section increases the maximum liability of a director beyond the amounts set out in subsections 40s (7) and (8).
Payment to Director	<b>40va.</b> At the discretion of the Director, a director who is subject to an order under section 40u or 40v may be ordered to pay the wages in trust to the Director.
Limitation	<b>40w.</b> —(1) In the event of a conflict between the limitation period set out in subsection 63 (1) and a limitation period in any other Act, the limitation period in subsection 63 (1) applies unless the provision in the other Act states that it is to prevail over that subsection.
Assignment of judgment	(2) If a judgment has been obtained against the employer or a certificate has been filed under section 54, a director from whom the Program Administrator has recovered is entitled to an assignment of the judgment or certificate to the extent of the amount that has been recovered from that director after the Employee Wage Protection Program and the employees have fully recovered the wages that were owed.
Service	<b>40x.</b> —(1) A director may be served by prepaid registered mail addressed to his or her last known address or may be served personally.
Appointment of adjudicator	(2) If the document that was mailed under subsection (1) is returned and the director is not served personally, the Director may appoint an adjudicator to consider the manner of service.
Powers of adjudicator	(3) The adjudicator may order that service be effected in such manner as he or she considers appropriate in the circumstances.
Offence	<b>40y.</b> Any director who fails to comply with an order of an employment standards officer and who has not applied for a review of it or who fails to comply with an order of an adjudicator or a referee is guilty of an offence and is liable on conviction to a fine not exceeding \$50,000.
No contracting	<b>40z.</b> —(1) No provision in a contract, in the articles of incorporation or the by-laws of a corporation or in a resolution of a corporation relieves a director from the duty to act according to this Act or relieves him or her from liability for breach of it.
Indemnification of directors	(2) An employer may indemnify a director, a former director and the heirs or legal representatives of a director or former director against all costs, charges and expenses, including an amount paid to satisfy an order under this Act or paid in respect of a certificate issued under this Act, reasonably incurred by the director in respect of any civil or administrative action or proceeding to which he or she is a party by reason of being or having been a director of the employer if,



- (a) he or she has acted honestly and in good faith with a view to the best interests of the employer; and
- (b) in the case of a proceeding or action that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

Civil  
remedies  
protected

**40za.** No civil remedy that a person may have against a director or that a director may have against any person is suspended or affected by this Part.

**7. The Act is further amended by adding the following section:**

**7 La Loi est modifiée en outre par adjonction de l'article suivant :**

Appointment  
of adjudica-  
tors

**42a.**—(1) The Minister shall appoint such persons to be adjudicators as he or she considers necessary for the purposes of this Act.

Remunera-  
tion

(2) An adjudicator shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

**8. The Act is further amended by adding the following section:**

**8 La Loi est modifiée en outre par adjonction de l'article suivant :**

Wages

**46a.** Despite subclause 1 (p) (iv), payments described in clause 40b (2) (d) shall, for the purposes of this Part, be deemed to be wages.

**9.**—(1) Clause 47 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3 and amended by 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is repealed and the following substituted:

**9** (1) L'alinéa 47 (1) (c) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981 et modifié par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

- (c) issue an order in writing to the employer to pay forthwith to the Director in trust any wages to which an employee is entitled and in addition such order shall provide for payment, by the employer to the Director, of administration costs in the amount of 10 per cent of the wages or \$100, whichever is the greater.

(2) Section 47 of the Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 3, 1989, chapter 72, section 48 and 1990, chapter 26, section 3, is further amended by adding the following subsections:

(2) L'article 47 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 22 des Lois de l'Ontario de 1981, par l'article 48 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 3 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des paragraphes suivants :

Failure to  
pay sever-  
ance pay

(1a) If an employee has agreed to a compromise or settlement under clause (1) (b) and the employer does not pay the wages agreed upon or the employee demonstrates that the compromise or settlement was entered into as the result of the employer's fraud or coercion, an employment standards officer may issue an order under subsection (1).

Effect of  
order

(7) If an employer fails to apply under section 50 for a review of an order issued by an employment standards officer, the order becomes final and binding against the employer even though a review hearing is held to determine another person's liability under this Act.

**10.**—(1) Subsection 49 (1) of the Act is amended by striking out "under" in the fourth line and substituting "or has found that the employee has no other entitlements or that there are no actions which the

**10** (1) Le paragraphe 49 (1) de la Loi est modifié par substitution, à «under» à la quatrième ligne, de «or has found that the employee has no other entitlements or that there are no actions which the employer is to



employer is to do or is to refrain from doing in order to be in compliance with”.

do or is to refrain from doing in order to be in compliance with».

(2) Subsection 49 (2) of the Act is repealed and the following substituted:

(2) Le paragraphe 49 (2) de la Loi est abrogé et remplacé par ce qui suit :

Review of  
refusal to  
issue order

(2) An employee who considers himself or herself aggrieved by the refusal to issue an order to an employer or by the issuance of an order that in his or her view does not include all of the wages or other entitlements to which he or she is entitled may apply to the Director in writing within fifteen days of the date of the mailing of the letter mentioned in subsection (1) or the date of the issue of the order or such longer period as the Director may for special reasons allow for a review of the refusal or of the amount of the order.

Appointment  
of adjudicator

(3) Upon receipt of an application for review, the Director may appoint an adjudicator who shall hold a hearing.

Parties to  
hearing

(4) The employee who applied for the review, the employment standards officer whose order or refusal to make an order is the subject of the review and such other persons, including the employer and directors of the employer, as the adjudicator may specify are parties to the review hearing.

Power of  
adjudicator

(5) The adjudicator who is conducting the hearing may with necessary modifications exercise the powers conferred on an employment standards officer under this Act and may make an order with respect to the refusal or an order to amend, rescind or affirm the order of the employment standards officer.

Notice

(6) When the adjudicator makes an order or amends, rescinds or affirms an order of the employment standards officer, he or she shall notify the employee and any other person affected by it of the order by prepaid letter addressed to the person's last known address.

Decision of  
adjudicator

(7) The order of the adjudicator is not subject to a review under section 50 and is final and binding on the parties.

**11.—(1)** Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3, 1988, chapter 7, section 2 and 1991, chapter 5, section 17, is further amended by inserting after “39m” in the amendment of 1991 “40u”.

**11** (1) Le paragraphe 50 (1) de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983, par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988 et par l'article 17 du chapitre 5 des Lois de l'Ontario de 1991, soit modifié de nouveau par insertion, après «39m» dans la modification de 1991, de «40u».

(2) Subsection 50 (3) of the Act is repealed and the following substituted:

(2) Le paragraphe 50 (3) de la Loi est abrogé et remplacé par ce qui suit :

Hearing

(3) The Director shall select a referee from the panel of referees to hear the review.

(3) Section 50 of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by adding the following subsections:

(3) L'article 50 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié de nouveau par adjonction des paragraphes suivants :

Interest

(1a) An employer who has applied for a review of the order is liable for interest as prescribed on any wages that are found to be owing and such interest shall be paid according to the decision of the referee.

Information  
on entitlement to  
wages

(5a) If an employer applies for a review, the employer shall provide the facts supporting why the entitlement to the wages

and why other directions or entitlements ordered, if any, are being challenged for each employee to the Director within fifteen days of applying for the review or such longer period as the Director may for special reasons allow, unless the Director waives this requirement in whole or in part.

Expedited  
hearing

(5b) Not later than forty-five days after the review was applied for, the referee shall, before considering any substantive issue, commence the hearing on the employee's entitlement to wages.

Extensions

(5c) The referee may allow an extension of the period set out in subsection (5b) if an extension has been given under subsection (5a) or for other special reasons.

Interim  
order

(5d) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages, he or she shall affirm or amend the order of the employment standards officer or make such other order as he or she considers appropriate to the extent of the undisputed portion of the wages before the hearing is completed.

Decision of  
referee

(5e) The referee shall issue his or her decision within ninety days after the first day of hearing, unless a referee designated by the Minister grants an extension for special reasons.

**12. Section 51 of the Act is amended by adding the following subsections:**

**12 L'article 51 de la Loi est modifié par adjonction des paragraphes suivants :**

Deemed  
employers

(1a) Directors of an employer that is the subject of a report under subsection (1) have all the rights and defences of an employer for the purposes of the review and are bound by this section in like manner as the employer, except that their liability is limited to the amounts set out in subsections 40s (7) and (8) and they may only be ordered to pay wages as described in subsection 40s (3).

Idem

(1b) For purposes of a hearing provided for under subsection (1), a reference to "employer" shall be deemed to read as a reference to "director".

Information  
on entitle-  
ment for  
wages

(1c) An employer who is the subject of a report under subsection (1) shall provide the facts supporting why any entitlement to wages and other possible entitlements are disputed for each employee to the Director within fifteen days of the Director appointing a referee or such longer period as the referee may for special reasons allow, unless the referee waives this requirement in whole or in part.

Expedited  
hearing

(1d) Not later than forty-five days after the Director appoints the referee or such longer period as the referee may for special reasons allow and before considering any other substantive issue, the referee shall commence the hearing on the employee's entitlement to wages.

Interim deci-  
sion

(1e) If, before the end of the hearing, the referee finds that there is an undisputed portion of wages or that certain wages are owed, he or she shall make an interim order with respect to such wages.

Decision of  
referee

(1f) The referee shall issue his or her decision within ninety days after the first day of hearing, unless a referee designated by the Minister grants an extension for special reasons.

**13. Section 52 of the Act is repealed and the following substituted:**

**13 L'article 52 de la Loi est abrogé et remplacé par ce qui suit :**

Payment to  
Director

**52.—(1)** Where the Director has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to an employer who is liable to make any payment under this Act or to a director who is liable to make any payment under this Act, the Director may, by registered letter or

letter served personally, demand that the person pay the money otherwise payable to the employer or to the director in whole or in part to the Director in trust on account of liability under this Act.

Receipt of  
Director

(2) The receipt of the Director for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability to  
pay

(3) Every person who has discharged any liability to an employer who is liable to make a payment under this Act or to a director who is liable to make a payment under this Act without complying with a demand under this section is liable to pay an amount equal to the liability discharged or the amount that he or she was required under this section to pay, whichever is the lesser.

**14.—(1)** Subsection 54 (1) of the Act is amended by adding after “employees” in the third line “or requiring a director to pay any money to the Director for or on behalf of an employee or employees”.

(2) Subsection 54 (2) of the Act is repealed and the following substituted:

Copy of  
certificate

(2) The Director shall send a copy of the certificate to the employer or to the director, as the case may be, by registered mail and shall advise the employer or the director of the date the certificate was filed.

**15.** Section 58 of the Act is amended by adding the following subsection:

Offence

(2) No person shall provide false or misleading information under this Act.

**16.** Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7 and 1990, chapter 26, section 4, is further amended by adding the following clauses:

**14** (1) Le paragraphe 54 (1) de la Loi est modifié par insertion, après «employees» à la troisième ligne, de «or requiring a director to pay any money to the Director for or on behalf of an employee or employees».

(2) Le paragraphe 54 (2) de la Loi est abrogé et remplacé par ce qui suit :

**15** L'article 58 de la Loi est modifié par adjonction du paragraphe suivant :

**16** Le paragraphe 65 (1) de la Loi, tel qu'il est modifié par l'article 7 du chapitre 30 des Lois de l'Ontario de 1987 et par l'article 4 du chapitre 26 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction des alinéas suivants :

- (rb) prescribing other payments that are wages for purposes of subsection 40b (2);
- (rc) establishing criteria for seeking repayment for excess compensation for purposes of section 40m;
- (rd) governing the payment of interest under any or all of sections 40p, 40s and 50;
- (re) providing for and governing the consolidation of hearings under this Act;
- (rf) providing for the manner of apportioning compensation under subsection 40j (2);
- (rg) prescribing a maximum amount of compensation under section 40i;
- (rh) prescribing persons or classes of persons for purposes of section 40qb;
- (ri) governing the conditions that must be met before there is a deemed assignment of compensation under section 40qb and the restrictions that may be placed on such assignments.

Transition

**17.—(1)** An employee who would be eligible for compensation from the Employee Wage Protection Program under subsection

**17** (1) L'employé qui serait admissible à une indemnité dans le cadre du Programme de protection des salaires des employés aux

Disposition  
transitoire



40e (1) of the *Employment Standards Act*, as enacted by section 5 of this Act, may be compensated,

- (a) when, on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, wages, excluding termination pay and severance pay, become due and owing;
- (b) when, due to a lay-off that commenced on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force, the employee is terminated or is deemed to be terminated and termination pay or severance pay is due and owing; and
- (c) when a termination occurs on or after the 1st day of October, 1990 and before section 5 of this Act is proclaimed in force and termination pay or severance pay is due and owing.

Idem

(2) If an order is issued with respect to wages described in subsection (1), the order shall not exceed the sum of,

- (a) \$4,000 with respect to any wages other than the employee's severance pay and compensation awarded under section 39;
- (b) the amount of the employee's severance pay, if any; and
- (c) the amount of compensation awarded under section 39, if any.

Idem

(3) For purposes of this section, any claim described in clause 40e (1) (a) of the *Employment Standards Act*, as made by section 5 of this Act, that has been verified by the Program Administrator is deemed to be an order.

Idem

(4) Despite subsection (2), the maximum amount of compensation that an employee may receive under this section is \$5,000.

Commence-  
ment

**18.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**19.** The short title of this Act is the *Employment Standards Amendment Act (Employee Wage Protection Program), 1991*.

termes du paragraphe 40e (1) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est adopté par l'article 5 de la présente loi, peut être indemnisé dans les cas suivants :

- a) lorsque, le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, un salaire, à l'exception des indemnités de licenciement et de cessation d'emploi, devient exigible;
- b) lorsque, en raison d'une mise à pied ayant pris effet le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, l'employé est licencié ou est réputé l'être et qu'une indemnité de licenciement ou de cessation d'emploi lui est due;
- c) lorsque son licenciement survient le 1<sup>er</sup> octobre 1990 ou par la suite, mais avant que l'article 5 de la présente loi ne soit proclamé en vigueur, et qu'une indemnité de licenciement ou de cessation d'emploi lui est due.

(2) Dans le cas où est rendue une ordonnance relativement au salaire visé au paragraphe (1), l'indemnité prévue par l'ordonnance ne dépasse pas la somme des montants suivants :

Idem

- a) 4 000 \$ au titre de tout salaire, à l'exception de l'indemnité de cessation d'emploi de l'employé et de l'indemnité qui lui est attribuée en vertu de l'article 39;
- b) le montant de l'indemnité de cessation d'emploi de l'employé, le cas échéant;
- c) le montant de l'indemnité qui lui est attribuée en vertu de l'article 39, le cas échéant.

(3) Pour l'application du présent article, toute demande visée à l'alinéa 40e (1) (a) de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est adopté par l'article 5 de la présente loi, et qu'a vérifiée l'administrateur du Programme est réputée une ordonnance.

Idem

(4) Malgré le paragraphe (2), l'indemnité maximale qu'un employé peut recevoir en vertu du présent article est de 5 000 \$.

Idem

**18** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**19** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les normes d'emploi (Programme de protection des salaires des employés)*.

Titre abrégé

CA2 ON  
XB  
055

Bill 71

Private Member's Bill

Projet de loi 71

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

# Bill 71

**An Act to amend the  
Representation Act, 1986**

**Mr. Tilson**

1st Reading    April 11th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

# Projet de loi 71

**Loi portant modification de la  
Loi de 1986 sur la représentation  
électorale**

**M. Tilson**

1<sup>re</sup> lecture    11 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The Bill would amend the Schedule to the *Representation Act, 1986* by renaming "THE ELECTORAL DISTRICT OF DUFFERIN-PEEL" as "THE ELECTORAL DISTRICT OF DUFFERIN-CALEDON".

The Bill amends only the English version of the *Representation Act, 1986*. The Legislature has not yet adopted an official French language version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi modifie l'annexe de la loi intitulée *Representation Act, 1986* («*Loi de 1986 sur la représentation électorale*») en remplaçant l'appellation «THE ELECTORAL DISTRICT OF DUFFERIN-PEEL» par celle de «THE ELECTORAL DISTRICT OF DUFFERIN-CALEDON».

Le projet de loi ne modifie que la version anglaise de cette loi, la Législature n'ayant pas encore adopté de version française officielle.



**An Act to amend the  
Representation Act, 1986**

**Loi portant modification de la  
Loi de 1986 sur la représentation  
électorale**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The Schedule to the *Representation Act, 1986*, as amended by the Statutes of Ontario, 1990, chapter 1, section 1, is further amended by renaming "THE ELECTORAL DISTRICT OF DUFFERIN-PEEL" as "THE ELECTORAL DISTRICT OF DUFFERIN-CALEDON".

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Representation Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'annexe de la loi intitulée *Representation Act, 1986* («*Loi de 1986 sur la représentation électorale*»), telle qu'elle est modifiée par l'article 1 du chapitre 1 des Lois de l'Ontario de 1990, est modifiée de nouveau par remplacement de l'appellation «THE ELECTORAL DISTRICT OF DUFFERIN-PEEL» par celle de «THE ELECTORAL DISTRICT OF DUFFERIN-CALEDON».


**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la représentation électorale*.

Entrée en  
vigueur

Titre abrégé



Bill 72	Private Member's Bill	Projet de loi 72	de député
1ST SESSION, 35TH LEGISLATURE, ONTARIO 40 ELIZABETH II, 1991		1 <sup>re</sup> SESSION, 35 <sup>e</sup> LÉGISLATURE, ONTARIO 40 ELIZABETH II, 1991	
<h1 data-bbox="291 495 458 550">Bill 72</h1> <p data-bbox="141 699 611 818">An Act to amend the Education Act with respect to Electoral Quotients</p> <p data-bbox="302 1084 452 1114">Mr. Tilson</p>		<h1 data-bbox="881 495 1268 550">Projet de loi 72</h1> <p data-bbox="803 699 1348 818">Loi portant modification de la Loi sur l'éducation en ce qui a trait aux quotients électoraux</p> <p data-bbox="1011 1084 1146 1114">M. Tilson</p> 	
<p data-bbox="177 1477 554 1507">1st Reading      April 16th, 1991</p> <p data-bbox="165 1526 318 1556">2nd Reading</p> <p data-bbox="169 1574 318 1604">3rd Reading</p> <p data-bbox="158 1622 318 1653">Royal Assent</p>		<p data-bbox="901 1473 1210 1503">1<sup>re</sup> lecture      16 avril 1991</p> <p data-bbox="908 1522 1018 1552">2<sup>e</sup> lecture</p> <p data-bbox="908 1570 1018 1600">3<sup>e</sup> lecture</p> <p data-bbox="842 1618 1018 1649">sanction royale</p>	
<p data-bbox="205 1850 559 1941">Printed under authority of the Legislative Assembly by the ©Queen's Printer for Ontario</p>		<p data-bbox="846 1844 1319 1935">Imprimé avec l'autorisation de l'Assemblée législative par ©l'Imprimeur de la Reine pour l'Ontario</p>	



#### EXPLANATORY NOTE

Under the *Education Act*, the number of trustees representing a municipality on a board of education is determined by its population, but the number can be increased by one or two if the board passes a resolution increasing the municipality's "electoral quotients". The Bill would amend the Act by providing that an elector may apply to the Minister to disallow an increase of quotients if a resolution is passed, or to increase the quotients if no resolution is passed. The Minister is required to consider whether the number of trustees that would represent the municipality without an increase would be adequate, taking into account the physical size of the municipality and the number of board committees.

The Bill amends only the English version of the *Education Act*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Aux termes de la *Loi sur l'éducation*, le nombre de conseillers scolaires représentant une municipalité au sein d'un conseil de l'éducation est déterminé en fonction de la population de celle-ci, bien que ce nombre puisse être augmenté d'un ou de deux si le conseil adopte une résolution visant à augmenter les «quotients électoraux» de la municipalité. Le projet de loi vise à modifier la Loi en permettant à tout électeur de présenter au ministre une demande de rejet de toute augmentation des quotients en cas d'adoption d'une résolution ou de présenter une demande d'augmentation des quotients si aucune résolution n'est adoptée. Il incombe au ministre d'établir si, compte tenu de l'étendue de la municipalité et du nombre de comités du conseil, le nombre de conseillers scolaires représentant la municipalité en l'absence d'une augmentation serait suffisant.

Le projet de loi ne modifie que la version anglaise de la *Loi sur l'éducation*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

**An Act to amend the  
Education Act with respect to  
Electoral Quotients**

**Loi portant modification de la  
Loi sur l'éducation en ce qui a trait  
aux quotients électoraux**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The *Education Act* is amended by adding the following section:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La loi intitulée *Education Act* («*Loi sur l'éducation*») est modifiée par adjonction de l'article suivant :

Quotient  
increased

**206ba.**—(1) If the members of the board who represent an electoral group pass a resolution under subsection 206a (13) providing for an increase in the electoral quotient for a municipality in respect of an election, any elector of the electoral group may apply to the Minister to disallow the increase.

Quotient not  
increased

(2) If the members of the board who represent an electoral group passed a resolution under subsection 206a (13) providing for an increase in the electoral quotient for a municipality in respect of a past election but no resolution designating the municipality is passed under that subsection before the 31st day of March in the year of the next regular election, any elector of the electoral group may apply to the Minister to increase the quotient for the municipality for that election.

Require-  
ments  
respecting  
applications

(3) The Minister shall not consider any application unless,

- (a) it is accompanied by a supporting petition signed by at least fifty electors who would be eligible to make the application; and
- (b) it is made not later than three months before the nomination day for the regular election to which it pertains.

Minister's  
decision

(4) In making a decision on an application, the Minister shall consider whether the distribution that would be made if the electoral quotient for the municipality in respect of which the application was made was not increased would result in the number of members representing the electors of the electoral group for the municipality on the board being inadequate, taking into account the physical size of the municipality and the number of board committees.

Time for decision (5) The Minister shall make a decision with respect to an application not later than two weeks before the nomination day for the regular election to which it pertains.

Decision to disallow increase (6) If the Minister allows an application made under subsection (1), the person prescribed by the regulations shall make a distribution of members in accordance with subsection 206a (11) as if no resolution had been passed under subsection 206a (13).

Decision to allow increase (7) If the Minister denies an application made under subsection (1), the distribution of members shall be in accordance with subsection 206a (17).

Decision to increase (8) If the Minister allows an application made under subsection (2), he or she shall increase the electoral quotient for the municipality to which the application pertains by one or two and the person prescribed by the regulations shall make an alternative distribution under subsection 206a (17) as if a resolution that provided for an increase of the electoral quotient by the same amount had been passed under subsection 206a (13).

Decision not to increase (9) If the Minister denies an application made under subsection (2), the distribution of members shall be in accordance with subsection 206a (11).

Commence-  
ment

**2. This Act comes into force on the day it receives Royal Assent.**

**2 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.**

Entrée en  
vigueur

Short title

**3. The short title of this Act is the *Education Amendment Act (Electoral Quotients), 1991*.**

**3 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur l'éducation (quotients électoraux)*.**

Titre abrégé

Bill 73

Government Bill

Projet de loi 73

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 73

**An Act to repeal  
The John Graves Simcoe Memorial  
Foundation Act, 1965**

**The Hon. R. Marchese**  
Minister of Culture and  
Communications

1st Reading      April 17th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 73

**Loi portant abrogation de la  
loi intitulée The John Graves Simcoe  
Memorial Foundation Act, 1965**

**L'honorable R. Marchese**  
Ministre de la Culture et des  
Communications

1<sup>re</sup> lecture      17 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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#### EXPLANATORY NOTE

*The John Graves Simcoe Memorial Foundation Act, 1965* is repealed since the building known as Wolford Chapel in Devon, England containing the remains of John Graves Simcoe is now maintained by the Ontario Heritage Foundation.

#### NOTE EXPLICATIVE

La loi intitulée *The John Graves Simcoe Memorial Foundation Act, 1965* est abrogée étant donné que la conservation de l'édifice connu sous le nom de Wolford Chapel dans le Devon, en Angleterre, où se trouvent les restes de John Graves Simcoe est désormais assurée par la Fondation du patrimoine ontarien.

**An Act to repeal  
The John Graves Simcoe Memorial  
Foundation Act, 1965**

**Loi portant abrogation de la  
loi intitulée The John Graves Simcoe  
Memorial Foundation Act, 1965**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The John Graves Simcoe Memorial Foundation Act, 1965 is repealed.*

**2.** This Act comes into force on the day it receives Royal Assent.

**3.** The short title of this Act is the *John Graves Simcoe Memorial Foundation Repeal Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La loi intitulée *The John Graves Simcoe Memorial Foundation Act, 1965* est abrogée.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 abrogeant la loi intitulée John Graves Simcoe Memorial Foundation Act*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé



**Bill 73**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 73**

*(Chapter 40  
Statutes of Ontario, 1991)*

**An Act to repeal  
The John Graves Simcoe Memorial  
Foundation Act, 1965**

**The Hon. K. Haslam**  
Minister of Culture and  
Communications

1st Reading	April 17th, 1991
2nd Reading	November 18th, 1991
3rd Reading	November 20th, 1991
Royal Assent	November 25th, 1991

**Projet de loi 73**

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Projet de loi 73**

*(Chapitre 40  
Lois de l'Ontario de 1991)*

**Loi portant abrogation de la  
loi intitulée The John Graves Simcoe  
Memorial Foundation Act, 1965**

**L'honorable K. Haslam**  
Ministre de la Culture et des  
Communications

1 <sup>re</sup> lecture	17 avril 1991
2 <sup>e</sup> lecture	18 novembre 1991
3 <sup>e</sup> lecture	20 novembre 1991
sanction royale	25 novembre 1991





Bill 73

1991

Projet de loi 73

1991

**An Act to repeal  
The John Graves Simcoe Memorial  
Foundation Act, 1965**

**Loi portant abrogation de la  
loi intitulée The John Graves Simcoe  
Memorial Foundation Act, 1965**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** *The John Graves Simcoe Memorial Foundation Act, 1965* is repealed.

**2.** This Act comes into force on the day it receives Royal Assent.

**3.** The short title of this Act is the *John Graves Simcoe Memorial Foundation Repeal Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La loi intitulée *The John Graves Simcoe Memorial Foundation Act, 1965* est abrogée.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 abrogeant la loi intitulée The John Graves Simcoe Memorial Foundation Act*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé



**Bill 74** **Government Bill** **Projet de loi 74** **du gouvernement**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 74

**An Act respecting the  
Provision of Advocacy Services to  
Vulnerable Persons**

**The Hon. E. Ziemba**  
Minister of Citizenship

1st Reading      April 18th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 74

**Loi concernant la prestation de  
services d'intervenants en faveur  
des personnes vulnérables**

**L'honorable E. Ziemba**  
Ministre des Affaires civiques

1<sup>re</sup> lecture      18 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTES

The proposed Act establishes a framework for the provision of social advocacy services to benefit persons who, because of disability, have difficulty in expressing or acting on their wishes or in ascertaining or exercising their rights (defined in section 2 as "vulnerable persons"). Some of the Act's most important features are:

1. An Advocacy Commission is created to provide advocacy services and perform related functions, directly or through non-profit community programs. The Commission's mandate is set out in detail in subsection 7 (1).
2. Organizations representing vulnerable persons will participate in the selection of the members of the Commission. The Act requires that a majority of the members be persons who have or have had a disability. (Sections 5, 6, 13, 14 and 15)
3. Advocates who work for the Commission or in community programs operated under the Act are given the right to enter facilities, and certain other premises such as boarding homes, in order to provide advocacy services to any vulnerable persons who may be there. They are given a more circumscribed right to enter premises in general to provide advocacy services. They are also given a right of access, with consent, to records that relate to vulnerable persons and are kept by facilities. The various rights of entry and access may be enforced by warrant. (Sections 16 to 28)
4. The provisions of the *Freedom of Information and Protection of Privacy Act, 1987* that govern recorded personal information will apply to records in the hands of the Commission and its advocates. The *Advocacy Act* also imposes a duty of confidentiality on the Commission and its advocates with respect to unrecorded information about vulnerable persons, subject only to specific exceptions. Since the *Freedom of Information and Protection of Privacy Act* will not apply to community programs, the *Advocacy Act* imposes a duty of confidentiality on their advocates and other staff with respect to both recorded and unrecorded information about vulnerable persons, subject only to the same exceptions. The confidentiality of information about advocacy services that do not relate to individual vulnerable persons is dealt with in the same manner. (Sections 29 to 33)
5. It is an offence to prevent an advocate from exercising the rights of entry and access to records conferred by the Act. (Sections 34 and 35)
6. The Commission is given power to make regulations, subject to the approval of the Lieutenant Governor in Council, dealing with (among other matters) mechanisms for the provision of advocacy services, minimum qualifications and educational standards for advocates, procedures and standards governing the provision of advocacy services, the provision of certain kinds of advocacy services to vulnerable persons who are mentally incapable and the designation of additional facilities in connection with the right of entry given to advocates. (Section 36)

## NOTES EXPLICATIVES

La Loi proposée établit un cadre pour la prestation de services d'intervention sociale à l'intention des personnes qui, en raison d'une déficience, ont de la difficulté à exprimer leurs désirs ou à leur donner suite, ou encore à s'informer de leurs droits ou à les exercer (définies à l'article 2 comme des «personnes vulnérables»). Voici quelques-uns des principaux éléments de la Loi :

1. Une Commission d'intervention est constituée pour fournir des services d'intervention et exercer des fonctions connexes, directement ou dans le cadre de programmes communautaires à but non lucratif. Les fonctions de la Commission sont énoncées en détail au paragraphe 7 (1).
2. Les organisations qui représentent des personnes vulnérables participeront au choix des membres de la Commission. La Loi exige que la majorité des membres soient des personnes qui sont ou ont été atteintes d'une déficience. (Articles 5, 6, 13, 14 et 15)
3. Il est donné aux intervenants qui travaillent pour la Commission ou dans le cadre de programmes communautaires offerts aux termes de la Loi le droit d'entrer dans des établissements, et dans certains autres lieux comme des pensions, afin d'y fournir des services d'intervention aux personnes vulnérables qui peuvent s'y trouver. Il leur est donné un droit plus restreint d'entrer dans des lieux en général pour y fournir des services d'intervention. Il leur est aussi donné le droit d'accéder, sur consentement, aux dossiers qui concernent des personnes vulnérables et qui sont gardés par les établissements. Les droits d'entrée et d'accès peuvent être exercés au moyen d'un mandat. (Articles 16 à 28)
4. Les dispositions de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* qui régissent les renseignements personnels consignés s'appliqueront aux documents qui sont en la possession de la Commission et de ses intervenants. La *Loi sur l'intervention* impose également à la Commission et aux intervenants un devoir de confidentialité à l'égard des renseignements non consignés au sujet de personnes vulnérables, sous réserve de certaines restrictions seulement. Comme la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* ne s'appliquera pas aux programmes communautaires, la *Loi sur l'intervention* impose aux intervenants et aux autres personnes qui travaillent dans le cadre de ces programmes un devoir de confidentialité à l'égard des renseignements, aussi bien consignés que non consignés, au sujet de personnes vulnérables, sous réserve des mêmes restrictions seulement. La confidentialité des renseignements sur les services d'intervention qui ne se rapportent pas à des personnes vulnérables particulières est traitée de la même manière. (Articles 29 à 33)
5. Est coupable d'une infraction quiconque empêche un intervenant d'exercer les droits d'entrée et d'accès aux dossiers que lui confère la Loi. (Articles 34 et 35)
6. Il est donné à la Commission le pouvoir de prendre des règlements, sous réserve de l'approbation du lieutenant-gouverneur en conseil, prévoyant (entres autres) des mécanismes régissant la prestation de services d'intervention, des normes de compétence et de formation minimales pour les intervenants, la procédure et les normes qui régissent la prestation de certains genres de services d'intervention aux personnes vulnérables qui sont incapables mentalement et la désignation d'autres établissements à l'égard du droit d'entrée donné aux intervenants. (Article 36)

**An Act respecting the  
Provision of Advocacy Services to  
Vulnerable Persons**

**Loi concernant la prestation de  
services d'intervenants en faveur  
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Purposes of Act

**1.** The purposes of this Act are,

- (a) to contribute to the empowerment of vulnerable persons and to promote respect for their rights, freedoms, autonomy and dignity;
- (b) to provide advocacy services to help vulnerable persons,
  - (i) make their own decisions, exercise their rights, speak on their own behalf, engage in mutual aid and form organizations to advance their interests, and
  - (ii) bring about structural changes at the political, legal, social, economic and institutional levels;
- (c) to ensure that community development strategies are applied in the provision of advocacy services;
- (d) to take into account the religion, culture and traditions of vulnerable persons;
- (e) to ensure that aboriginal communities are enabled to provide their own advocacy services whenever possible;
- (f) to acknowledge, encourage and enhance individual, family and community support for the security and well-being of vulnerable persons.

Definition, "vulnerable person"

**2.** In this Act, "vulnerable person" means a person who, because of a mental or physical disability, illness or infirmity, whether temporary or permanent, has difficulty in expressing or acting on his or her wishes or in ascertaining or exercising his or her rights.

Application, vulnerable persons

**3.—(1)** This Act applies in respect of vulnerable persons who are sixteen years of age or older.

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** Les objets de la présente loi sont les suivants :

Objets de la Loi

- a) contribuer à accroître le pouvoir des personnes vulnérables et promouvoir le respect de leurs droits, de leurs libertés, de leur autonomie et de leur dignité;
- b) fournir des services d'intervention pour aider les personnes vulnérables :
  - (i) à prendre leurs propres décisions, à exercer leurs droits, à parler en leur propre nom, à s'entraider et à former des organisations qui fassent valoir leurs intérêts,
  - (ii) à obtenir des changements structuraux sur les plans politique, juridique, social, économique et institutionnel;
- c) faire en sorte que les stratégies de développement communautaire soient appliquées dans la prestation de services d'intervention;
- d) tenir compte de la religion, de la culture et des traditions des personnes vulnérables;
- e) faire en sorte que les collectivités autochtones puissent fournir leurs propres services d'intervention lorsque c'est possible;
- f) reconnaître, encourager et accroître l'appui des particuliers, des familles et des collectivités visant la sécurité et le bien-être des personnes vulnérables.

**2** Dans la présente loi, «personne vulnérable» s'entend d'une personne qui, en raison d'une déficience, d'une maladie ou d'un trouble physiques ou mentaux, qu'ils soient temporaires ou permanents, a de la difficulté à exprimer ses désirs ou à leur donner suite, ou encore à s'informer de ses droits ou à les exercer.

Définition, «personne vulnérable»

**3 (1)** La présente loi s'applique aux personnes vulnérables âgées de seize ans et plus.

Application, personnes vulnérables

Idem, advocates

(2) This Act applies in respect of advocates who work, whether on a paid or voluntary basis, for the Commission or in community programs operated under this Act.

Minister

4. This Act shall be administered by the Minister of Citizenship.

## COMMISSION

Advocacy Commission

5.—(1) A commission to be known as the Advocacy Commission in English and as Commission d'intervention in French is hereby established.

Composition

(2) The Commission shall consist of a chair and at least six and not more than twelve other members, appointed by the Lieutenant Governor in Council on the Minister's recommendation.

Chair

(3) The chair shall serve full-time and the other members shall serve part-time.

Term and reappointment

(4) The chair and the other members shall hold office for three-year terms and may be reappointed for one further three-year term.

Vacancies

(5) If a member's position becomes vacant, the Lieutenant Governor in Council may, on the Minister's recommendation, appoint a replacement to serve for the remainder of the member's term.

Remuneration and expenses

(6) The chair and other members of the Commission shall be paid the remuneration fixed by the Lieutenant Governor in Council and the reasonable expenses incurred in the course of their duties under this Act.

Staggered terms

(7) Despite subsection (4), at least three and not more than a bare majority of the members first appointed, other than the chair, shall hold office for five-year terms and shall not be reappointed.

Criteria for appointment

6.—(1) A majority of the members of the Commission shall be persons who have or have had a mental or physical disability, illness or infirmity.

Idem

(2) In the selection of persons to be appointed to the Commission, the importance of assuring equitable representation by appointing persons of both sexes, members of minority groups and residents of all the regions of Ontario to the Commission shall be considered.

Functions of Commission

7.—(1) The Commission shall,

- (a) promote respect for vulnerable persons and for their rights, freedoms, autonomy and dignity;

(2) La présente loi s'applique aux intervenants qui travaillent, contre rémunération ou à titre bénévole, pour la Commission ou dans le cadre de programmes communautaires offerts aux termes de la présente loi.

4 L'application de la présente loi relève du ministre des Affaires civiques.

## COMMISSION

5 (1) Est constituée une commission appelée Commission d'intervention en français et Advocacy Commission en anglais.

(2) La Commission se compose d'un président et de six à douze autres membres, nommés par le lieutenant-gouverneur en conseil sur la recommandation du ministre.

(3) Le président exerce ses fonctions à temps plein et les autres membres exercent les leurs à temps partiel.

(4) Le mandat du président et des autres membres est de trois ans, et il peut être renouvelé pour une autre période de trois ans.

(5) Si le poste d'un membre devient vacant, le lieutenant-gouverneur en conseil peut, sur la recommandation du ministre, nommer un remplaçant qui termine le mandat du membre.

(6) Le président et les membres de la Commission reçoivent la rémunération que fixe le lieutenant-gouverneur en conseil et les frais normaux engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

(7) Malgré le paragraphe (4), au moins trois des membres nommés à l'origine, mais au plus la majorité absolue de ces membres, à l'exclusion du président, ont un mandat non renouvelable de cinq ans.

6 (1) La majorité des membres de la Commission sont des personnes qui sont ou ont été atteintes d'une déficience, d'une maladie ou d'un trouble physiques ou mentaux.

(2) Pour choisir les personnes à nommer à la Commission, il est tenu compte de l'importance d'assurer une représentation équitable en nommant à la Commission des personnes des deux sexes, des membres des groupes minoritaires et des résidents de toutes les régions de l'Ontario.

7 (1) La Commission exerce les fonctions suivantes :

- a) promouvoir le respect des personnes vulnérables ainsi que le respect de leurs droits, de leurs libertés, de leur autonomie et de leur dignité;

Idem, intervenants

Ministre

Commission d'intervention

Composition

Président

Mandat et renouvellement de mandat

Vacances

Rémunération et frais

Mandats échelonnés

Critères de nomination

Idem

Fonctions de la Commission



- (b) provide advocacy services to help vulnerable persons to express and act on their wishes, ascertain and exercise their rights, speak on their own behalf, engage in mutual aid and form organizations to advance their interests;
- (c) provide advocacy services to help vulnerable persons to bring about structural changes at the political, legal, social, economic and institutional levels;
- (d) provide advocacy services as required by any other Act;
- (e) ensure that community development strategies are applied in the provision of advocacy services;
- (f) ensure that advocacy services are provided in a manner that takes into account the religion, culture and traditions of vulnerable persons;
- (g) ensure that aboriginal communities are enabled to provide their own advocacy services whenever possible;
- (h) acknowledge, encourage and enhance individual, family and community support for the security and well-being of vulnerable persons;
- (i) conduct programs of public information and education about the Commission and the services it provides;
- (j) conduct programs of public information and education about vulnerable persons and their rights, freedoms, autonomy and dignity;
- (k) offer training programs to advocates and persons who wish to become advocates;
- (l) ensure that advocates and community programs operated under this Act comply with the procedures and standards established by the regulations made under this Act.

Mechanism  
for provision  
of services

(2) The Commission may perform the functions described in clauses (1) (b), (c), (d), (i), (j) and (k) directly, through non-profit community programs or both.

Grants

(3) The Commission may make grants to community programs operated under this Act.

- b) fournir des services d'intervention qui aident les personnes vulnérables à exprimer leurs désirs et à leur donner suite, à s'informer de leurs droits et à les exercer, à parler en leur propre nom, à s'entraider et à former des organisations qui fassent valoir leurs intérêts;
- c) fournir des services d'intervention qui aident les personnes vulnérables à obtenir des changements structureaux sur les plans politique, juridique, social, économique et institutionnel;
- d) fournir des services d'intervention comme l'exige toute autre loi;
- e) faire en sorte que les stratégies de développement communautaire soient appliquées dans la prestation des services d'intervention;
- f) faire en sorte que les services d'intervention soient fournis d'une manière qui tienne compte de la religion, de la culture et des traditions des personnes vulnérables;
- g) faire en sorte que les collectivités autochtones puissent fournir leurs propres services d'intervention lorsque c'est possible;
- h) reconnaître, encourager et accroître l'appui des particuliers, des familles et des collectivités visant la sécurité et le bien-être des personnes vulnérables;
- i) mettre en oeuvre des programmes d'information et d'éducation du public au sujet de la Commission et des services qu'elle offre;
- j) mettre en oeuvre des programmes d'information et d'éducation du public au sujet des personnes vulnérables, de leurs droits, de leurs libertés, de leur autonomie et de leur dignité;
- k) offrir des programmes de formation aux intervenants et aux personnes qui désirent le devenir;
- l) faire en sorte que les intervenants et les programmes communautaires offerts aux termes de la présente loi se conforment à la marche à suivre et aux normes établies par les règlements pris en application de la présente loi.

(2) La Commission peut exercer les fonctions décrites aux alinéas (1) b), c), d), i), j) et k) directement ou dans le cadre de programmes communautaires à but non lucratif, ou des deux façons.

(3) La Commission peut accorder des subventions au titre de programmes communautaires offerts aux termes de la présente loi.

Mécanisme  
de prestation  
de services

Subventions

Staff and  
services

**8.—(1)** The Commission may employ staff and purchase services for the proper conduct of its work.

**8 (1)** La Commission peut employer le personnel et acheter les services nécessaires à son bon fonctionnement.

Personnel et  
servicesSalaries and  
benefits

(2) The employees of the Commission shall receive salaries similar to those received by public servants in positions that the Minister determines are comparable and shall receive similar benefits with respect to vacation and sick leave, life and health insurance, long-term income protection and leave of absence.

(2) Les employés de la Commission reçoivent des salaires semblables à ceux que reçoivent les fonctionnaires qui occupent des postes que le ministre estime comparables et ils reçoivent des avantages semblables relativement aux congés annuels et aux congés de maladie, à l'assurance-vie et à l'assurance-santé, à l'assurance-salaire à long terme et aux congés.

Salaires et  
avantages

Idem

(3) In the case of benefits provided for in regulations made under the *Public Service Act*, the chair of the Commission or his or her delegate may exercise the powers and duties of a minister or deputy minister or of the Civil Service Commission under those regulations.

(3) Dans le cas d'avantages prévus dans les règlements pris en application de la loi intitulée *Public Service Act* («*Loi sur la fonction publique*»), le président de la Commission ou son délégué peut exercer les pouvoirs et les fonctions qui sont conférés à un ministre ou un sous-ministre ou à la Commission de la fonction publique en vertu de ces règlements.

Idem

Pension plan

(4) The Commission shall be deemed to have been designated by the Lieutenant Governor in Council under the *Public Service Pension Act, 1989* as a commission whose employees are required to be members of the Public Service Pension Plan.

(4) La Commission est réputée avoir été désignée par le lieutenant-gouverneur en conseil en vertu de la loi intitulée *Public Service Pension Act, 1989* («*Loi de 1989 sur le Régime de retraite des fonctionnaires*») comme commission dont les employés sont tenus de participer au Régime de retraite des fonctionnaires.

Régime de  
retraiteProtection  
from  
personal  
liability

**9.—(1)** No proceeding for damages shall be instituted against a member of the Commission or an advocate or other person who works for the Commission or in a community program, whether on a paid or voluntary basis, for any act done in good faith in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

**9 (1)** Est irrecevable toute instance en dommages-intérêts intentée contre un membre de la Commission, un intervenant, ou une autre personne qui travaille pour la Commission ou dans le cadre d'un programme communautaire, contre rémunération ou à titre bénévole, pour un acte accompli de bonne foi dans l'exercice ou l'exercice prévu de leurs fonctions ou pour une négligence ou un manquement imputés dans l'exercice de bonne foi de leurs fonctions.

Immunité

Crown  
liability

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

(2) Malgré les paragraphes 5 (2) et (4) de la loi intitulée *Proceedings Against the Crown Act* («*Loi sur les instances introduites contre la Couronne*»), le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Responsabi-  
lité de la  
CouronneAdvisory  
committees

**10.** The Minister, in consultation with the Commission, may constitute one or more committees to advise the Commission.

**10** Le ministre, en consultation avec la Commission, peut constituer un ou plusieurs comités pour conseiller la Commission.

Comités con-  
sultatifs

Reports

**11.—(1)** The Commission shall make an annual report to the Minister on its activities and affairs and shall submit to the Minister any other reports that he or she requires.

**11 (1)** La Commission présente au ministre un rapport annuel sur ses activités et tout autre rapport que celui-ci exige.

Rapports

Tabling

(2) The Minister shall table the Commission's annual report before the Legislative Assembly if it is in session or, if not, at the next session.

(2) Le ministre dépose le rapport annuel de la Commission devant l'Assemblée législative. Si celle-ci ne siège pas, il le dépose à la session suivante.

Dépôt



## Audit

**12.** The accounts and financial transactions of the Commission shall be audited annually by the Provincial Auditor.

## APPOINTMENTS ADVISORY COMMITTEE

Appoint-  
ments advi-  
sory  
committee

**13.—(1)** There shall be an appointments advisory committee consisting of,

- (a) eight persons appointed by the Minister, each having first been nominated by the organizations belonging to one of the eight categories described in subsection 15 (1); and
- (b) two other persons appointed by the Minister.

## Functions

(2) The committee shall,

- (a) develop criteria and procedures for the selection of candidates for appointment to the Commission; and
- (b) select candidates and recommend them to the Minister.

Number of  
candidates

(3) The committee shall select and recommend three candidates for the position of chair and two candidates for any other position.

Recommen-  
dation by  
Minister

(4) The Minister shall select one candidate for each position from those recommended by the committee and shall recommend that candidate to the Lieutenant Governor in Council for appointment.

Remuner-  
ation and  
expenses

(5) The members of the committee shall be paid the remuneration fixed by the Lieutenant Governor in Council, at a daily rate, and the reasonable expenses incurred in the course of their duties under this Act.

Term and  
reappoint-  
ment

(6) The members of the committee shall hold office for three-year terms and may be reappointed for one further three-year term.

## Vacancies

(7) If a member's position becomes vacant, the Minister may appoint a replacement under clause (1) (a) or (b), as the case may be, to serve for the remainder of the member's term.

Staggered  
terms

(8) Despite subsection (6), four of the members first appointed under clause (1) (a) and one of the members first appointed under clause (1) (b) shall hold office for five-year terms and shall not be reappointed.

Appointment  
of members  
of committee

**14.—(1)** Whenever it is necessary to appoint a person to the appointments advisory committee under clause 13 (1) (a), the organizations belonging to the relevant category described in subsection 15 (1) shall recommend two candidates, of whom the Minister shall select and appoint one.

**12** Le vérificateur provincial vérifie chaque année les comptes et les opérations financières de la Commission.

Vérification

## COMITÉ CONSULTATIF DE NOMINATION

**13** (1) Est constitué un comité consultatif de nomination qui se compose des personnes suivantes :

Comité con-  
sultatif de  
nomination

- a) huit personnes nommées par le ministre après avoir été désignées chacune comme candidat par les organisations faisant partie d'une des huit catégories décrites au paragraphe 15 (1);
- b) deux autres personnes nommées par le ministre.

(2) Le comité exerce les fonctions suivantes :

Fonctions

- a) élaborer des critères et des modalités qui régissent le choix des candidats à des postes au sein de la Commission;
- b) choisir des candidats et les recommander au ministre.

(3) Le comité choisit et recommande trois candidats à la présidence et deux à tout autre poste.

Nombre de  
candidats

(4) Le ministre choisit, pour chaque poste, un candidat parmi ceux recommandés par le comité et recommande sa nomination au lieutenant-gouverneur en conseil.

Recommanda-  
tion du minis-  
tre

(5) Les membres du comité reçoivent la rémunération que fixe le lieutenant-gouverneur en conseil, à un taux quotidien, et les frais normaux engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération  
et frais

(6) Le mandat des membres du comité est de trois ans, et il peut être renouvelé pour une autre période de trois ans.

Mandat et  
renouvelle-  
ment de man-  
dat

(7) Si le poste d'un membre devient vacant, le ministre peut nommer, en vertu de l'alinéa (1) a) ou b), selon le cas, un remplaçant qui termine le mandat du membre.

Vacances

(8) Malgré le paragraphe (6), quatre des membres nommés à l'origine en vertu de l'alinéa (1) a) et un des membres nommés à l'origine en vertu de l'alinéa (1) b) ont un mandat non renouvelable de cinq ans.

Mandats  
échelonnés

**14** (1) Chaque fois que s'impose la nomination d'une personne au comité consultatif de nomination en vertu de l'alinéa 13 (1) a), les organisations faisant partie de la catégorie pertinente décrite au paragraphe 15 (1) recommandent deux candidats, dont un est choisi et nommé par le ministre.

Nomination  
des membres  
du comité

## Criteria

(2) Section 6 (criteria for appointment to Commission) applies in respect of the committee, with necessary modifications.

## Categories of organizations

**15.**—(1) The categories referred to in sections 13 and 14 are:

1. Organizations representing persons with a physical disability, illness or infirmity that is readily apparent, such as paralysis, amputation or a lack of physical co-ordination.
2. Organizations representing persons with a physical disability, illness or infirmity that is not readily apparent, such as A.I.D.S., epilepsy, diabetes or a learning disability.
3. Organizations representing persons sixty-five years of age or older.
4. Organizations representing persons with a psychiatric or emotional disability, illness or infirmity.
5. Organizations representing persons with a developmental disability.
6. Organizations representing persons with a neurological disability, illness or infirmity such as autism, Alzheimer's syndrome or traumatic head injury.
7. Organizations representing persons with multiple disabilities.
8. Patients' rights organizations.

## Organizations

(2) In order to participate in the nomination process, an organization must have at least twenty members, and, except in the case of organizations referred to in paragraph 6 of subsection (1), a majority of the members must be or have been persons whom the organization represents.

## RIGHTS OF ENTRY

## Purpose of entry

**16.**—(1) A right of entry conferred by this Act shall be exercised only for the purpose of providing advocacy services to vulnerable persons in accordance with clauses 7 (1) (b), (c) and (d).

## Identification

(2) When exercising a right of entry, an advocate shall present identification showing him or her to be an advocate who works for the Commission or in a community program.

## Definition, "facility"

**17.** In sections 19 to 28, "facility" means a facility that belongs to a category described

(2) L'article 6 (critères de nomination à la Commission) s'applique, avec les adaptations nécessaires, à l'égard du comité.

**15** (1) Les catégories visées aux articles 13 et 14 sont les suivantes :

1. Les organisations qui représentent des personnes atteintes d'une déficience, d'une maladie ou d'un trouble physiques apparents, tels que la paralysie, une amputation ou un manque de coordination des mouvements.
2. Les organisations qui représentent des personnes atteintes d'une déficience, d'une maladie ou d'un trouble physiques non apparents, tels que le Sida, l'épilepsie, le diabète ou une difficulté d'apprentissage.
3. Les organisations qui représentent des personnes âgées de soixante-cinq ans ou plus.
4. Les organisations qui représentent des personnes atteintes d'une déficience, d'une maladie ou d'un trouble mentaux ou affectifs.
5. Les organisations qui représentent des personnes atteintes d'une déficience de développement.
6. Les organisations qui représentent des personnes atteintes d'une déficience, d'une maladie ou d'un trouble du système nerveux, tels que l'autisme, la maladie d'Alzheimer ou un traumatisme crânien.
7. Les organisations qui représentent des personnes atteintes de déficiences multiples.
8. Les organisations de défense des droits des patients.

(2) Pour participer au processus de mise en candidature, l'organisation doit compter au moins vingt membres. Sauf dans le cas des organisations visées à la disposition 6 du paragraphe (1), la majorité des membres doivent être ou avoir été des personnes que l'organisation représente.

## DROITS D'ENTRÉE

**16** (1) Le droit d'entrée que confère la présente loi ne doit être exercé que dans le but de fournir des services d'intervention à des personnes vulnérables conformément aux alinéas 7 (1) b), c) et d).

(2) Lorsqu'il exerce un droit d'entrée, l'intervenant présente une pièce qui l'identifie comme intervenant travaillant pour la Commission ou dans le cadre d'un programme communautaire.

**17** Aux articles 19 à 28, «établissement» s'entend d'un établissement faisant partie

## Critères

## Catégories d'organisations

## Organisations

## But de l'entrée

## Identification

## Définition, «établissement»



in the Schedule or prescribed in the regulations made under this Act.

Application  
of ss. 19 and  
20 to other  
premises

**18.** Sections 19 and 20 also apply with necessary modifications in respect of premises where one or more persons live and that are operated for remuneration by a person who controls access to the premises.

Right of  
entry to  
facility

**19.**—(1) An advocate is entitled to enter a facility where there are or may be vulnerable persons, without a warrant and at any time that is reasonable in the circumstances.

Meeting with  
vulnerable  
persons

(2) The advocate is entitled to meet with vulnerable persons in the facility individually and without interference, without the presence of a member of the staff of the facility, and, if possible, in a separate room.

Warrant for  
entry to  
facility

**20.**—(1) A justice of the peace may issue a warrant for entry to a facility to an advocate if satisfied that the advocate has been prevented from exercising the right of entry to the facility conferred by subsection 19 (1) or has been prevented from meeting with a vulnerable person there in accordance with subsection 19 (2).

Notice,  
exceptions

(2) The warrant shall be issued only on notice to the person in charge of the facility, unless the justice of the peace is satisfied that,

- (a) an advocate has been prevented from exercising the right of entry to the facility on an earlier occasion; or
- (b) there are reasonable grounds to believe that the health or safety of a vulnerable person in the facility is in danger.

Authority  
conferred by  
warrant

(3) The warrant authorizes the advocate to enter the facility specified in the warrant, between 8 a.m. and 8 p.m. or during the hours specified in the warrant, to remain there for a reasonable time and to meet with any vulnerable person there in accordance with subsection 19 (2).

Right of  
entry to  
premises

**21.**—(1) An advocate is entitled to enter, without a warrant and between 8 a.m. and 8 p.m., premises where he or she has reasonable grounds to believe that there is a vulnerable person who wants or could benefit from the services of an advocate.

Meeting with  
vulnerable  
person

(2) The advocate is entitled to meet with the vulnerable person without interference, without the presence of another person and, if possible, in a separate room.

Obligation to  
leave prem-  
ises

(3) The advocate must leave the premises promptly if the vulnerable person indicates that he or she does not want the services of an advocate.

d'une catégorie décrite dans l'annexe ou prescrite dans les règlements pris en application de la présente loi.

**18** Les articles 19 et 20 s'appliquent aussi, avec les adaptations nécessaires, aux lieux où habitent une ou plusieurs personnes, et qui sont exploités par une personne, contre rémunération, qui contrôle l'accès des lieux.

Application  
des art. 19 et  
20 à d'autres  
lieux

**19** (1) L'intervenant a le droit d'entrer dans un établissement où se trouvent ou pourraient se trouver des personnes vulnérables, sans mandat et à toute heure raisonnable dans les circonstances.

Droit d'en-  
trée dans un  
établissement

(2) L'intervenant a le droit de rencontrer individuellement et sans entrave les personnes vulnérables à l'établissement, sans la présence d'un membre du personnel de l'établissement et, dans la mesure du possible, dans un local séparé.

Rencontre  
avec des per-  
sonnes vul-  
nérables

**20** (1) Un juge de paix peut décerner à un intervenant un mandat d'entrée dans un établissement s'il est convaincu que celui-ci a été empêché d'exercer le droit d'entrée dans l'établissement que lui confère le paragraphe 19 (1) ou qu'il a été empêché d'y rencontrer une personne vulnérable conformément au paragraphe 19 (2).

Mandat d'en-  
trée dans un  
établissement

(2) Le mandat ne doit être décerné que sur préavis à la personne responsable de l'établissement, à moins que le juge de paix ne soit convaincu que, selon le cas :

Avis, excep-  
tions

- a) un intervenant a été empêché antérieurement d'exercer le droit d'entrée dans l'établissement;
- b) il existe des motifs raisonnables de croire que la santé ou la sécurité d'une personne vulnérable qui s'y trouve est menacée.

(3) Le mandat autorise l'intervenant à entrer dans l'établissement qui y est précisé, entre 8 h et 20 h ou aux heures précisées dans le mandat, à y demeurer pendant une période raisonnable et à y rencontrer toute personne vulnérable conformément au paragraphe 19 (2).

Pouvoirs con-  
férés par le  
mandat

**21** (1) L'intervenant a le droit d'entrer, sans mandat et entre 8 h et 20 h, dans des lieux où il a des motifs raisonnables de croire qu'il se trouve une personne vulnérable qui désire obtenir les services d'un intervenant ou qui pourrait en tirer profit.

Droit d'en-  
trée dans des  
lieux

(2) L'intervenant a le droit de rencontrer la personne vulnérable sans entrave, sans la présence d'une autre personne et, dans la mesure du possible, dans un local séparé.

Rencontre  
avec la per-  
sonne vuln-  
érable

(3) L'intervenant doit quitter les lieux promptement si la personne vulnérable fait savoir qu'elle ne désire pas obtenir les services d'un intervenant.

Obligation de  
quitter les  
lieux

Warrant for entry to premises

**22.—(1)** A justice of the peace may issue a warrant for entry to premises to an advocate if satisfied that,

- (a) the advocate has reasonable grounds to believe that there is a vulnerable person on the premises who wants or could benefit from the services of an advocate; and
- (b) the advocate has been prevented from exercising the right of entry to the premises conferred by subsection 21 (1), or has been prevented from meeting with a vulnerable person there in accordance with subsection 22 (2).

Notice, exceptions

(2) The warrant shall be issued only on notice to the occupier of the premises, unless the justice of the peace is satisfied that,

- (a) an advocate has been prevented from exercising a right of entry to the premises on an earlier occasion; or
- (b) there are reasonable grounds to believe that the health or safety of a vulnerable person on the premises is in danger.

Authority conferred by warrant

(3) The warrant authorizes the advocate to enter the premises specified in the warrant, between 8 a.m. and 8 p.m. or during the hours specified in the warrant, to remain there for a reasonable time and to meet with a vulnerable person there in accordance with subsections 21 (2) and (3).

Name not required in warrant

**23.—(1)** It is not necessary to identify a vulnerable person by name in a warrant.

Duration of warrant

(2) A warrant is valid for seven days.

Execution

(3) The advocate named in a warrant may call on a police officer for assistance in executing it.

#### ADVOCATES' ACCESS TO RECORDS HELD BY FACILITIES

Access to record, person's consent

**24.—(1)** An advocate is entitled to have access, with a vulnerable person's consent, to any record relating to the person that is in the custody or control of a facility.

Application despite other Acts

(2) Subsection (1) prevails over any other Act.

Clinical record under *Mental Health Act*

(3) An advocate who obtains access under subsection (1) to a vulnerable person's clinical record within the meaning of section 29 of the *Mental Health Act* shall not disclose information from the clinical record to the person, directly or indirectly, unless,

**22** (1) Un juge de paix peut décerner à un intervenant un mandat d'entrée dans des lieux s'il est convaincu que :

Mandat d'entrée dans des lieux

- a) d'une part, l'intervenant a des motifs raisonnables de croire qu'il s'y trouve une personne vulnérable qui désire obtenir les services d'un intervenant ou qui pourrait en tirer profit;
- b) d'autre part, l'intervenant a été empêché d'exercer le droit d'entrée dans les lieux que lui confère le paragraphe 21 (1) ou a été empêché d'y rencontrer une personne vulnérable conformément au paragraphe 22 (2).

(2) Le mandat ne doit être décerné que sur préavis à l'occupant des lieux, à moins que le juge de paix ne soit convaincu que, selon le cas :

Préavis, exceptions

- a) un intervenant a été empêché antérieurement d'exercer le droit d'entrée dans les lieux;
- b) il existe des motifs raisonnables de croire que la santé ou la sécurité d'une personne vulnérable qui s'y trouve est menacée.

(3) Le mandat autorise l'intervenant à entrer dans les lieux qui y sont précisés, entre 8 h et 20 h ou aux heures précisées dans le mandat, à y demeurer pendant une période raisonnable et à y rencontrer toute personne vulnérable conformément aux paragraphes 21 (2) et (3).

Pouvoirs conférés par le mandat

**23** (1) Il n'est pas nécessaire de nommer de personne vulnérable dans le mandat.

Nom non obligatoire

(2) Le mandat expire au bout de sept jours.

Durée du mandat

(3) L'intervenant nommé dans le mandat peut faire appel à un agent de police pour l'aider à exécuter le mandat.

Exécution

#### ACCÈS, PAR LES INTERVENANTS, AUX DOSSIERS GARDÉS PAR LES ÉTABLISSEMENTS

**24** (1) L'intervenant a le droit d'accéder, avec le consentement de la personne vulnérable, à tout dossier concernant celle-ci dont l'établissement a la garde ou le contrôle.

Accès au dossier, consentement de la personne

(2) Le paragraphe (1) l'emporte sur toute autre loi.

Application malgré d'autres lois

(3) L'intervenant qui, en vertu du paragraphe (1), obtient l'accès au dossier clinique, au sens de l'article 29 de la loi intitulée *Mental Health Act* («*Loi sur la santé mentale*»), d'une personne vulnérable ne doit pas divulguer de renseignements qui y sont contenus à la personne, directement ou indirectement, à moins que, selon le cas :

Dossier clinique visé dans la *Loi sur la santé mentale*



- (a) the person's attending physician consents; or
- (b) the person obtains the information under the *Mental Health Act*.

Access to records, Commission's consent

**25.—**(1) An advocate is entitled to have access, with the Commission's consent, to records that are in the custody or control of a facility and that relate to vulnerable persons, whether living or dead, to whom the advocate has not provided individual services.

Criteria

(2) The Commission may give its consent only if it is satisfied that it is appropriate, for the purposes of clause 7 (1) (c), to allow the advocate to have access to the records without the consent of the vulnerable persons to whom they relate.

Exception, solicitor-client privilege

**26.—**(1) Subsections 24 (1) and 25 (1) do not override any solicitor-client privilege to which the owner or operator of the facility may be entitled.

Exception, law enforcement

(2) An advocate is not entitled to have access to a record or part of a record whose disclosure could reasonably be expected to produce one of the results described in subsection 14 (1) of the *Freedom of Information and Protection of Privacy Act, 1987* (law enforcement).

Rules re access to record

**27.** The following rules apply when an advocate is entitled to have access to a record:

1. The advocate is entitled to be given access to the record no later than four business days after requesting access.
2. The advocate is not entitled to have access to any information in the record that is personal information, as defined in the *Freedom of Information and Protection of Privacy Act, 1987*, relating to an individual in respect of whom no consent has been given.
3. The advocate is not entitled to make a search among the records kept by the facility.
4. The advocate is entitled to make copies or extracts from the record in any manner that does not damage the record.
5. At the advocate's request and within a reasonable time, the facility shall provide the advocate with photocopies of all or part of the record. The advocate shall pay the amount prescribed by the

- a) le médecin traitant de la personne y consent;
- b) la personne obtienne les renseignements en vertu de la *Loi sur la santé mentale*.

**25** (1) L'intervenant a le droit d'accéder, avec le consentement de la Commission, aux dossiers dont l'établissement a la garde ou le contrôle et qui concernent les personnes vulnérables, vivantes ou décédées, auxquelles l'intervenant n'a fourni aucun service individuel.

(2) La Commission ne peut donner son consentement que si elle est convaincue qu'il y a lieu, pour l'application de l'alinéa 7 (1) c), de permettre à l'intervenant d'accéder aux dossiers sans le consentement des personnes vulnérables qu'ils concernent.

**26** (1) Les paragraphes 24 (1) et 25 (1) ne l'emportent pas sur le privilège du secret professionnel de l'avocat auquel peut avoir droit le propriétaire ou l'exploitant de l'établissement.

(2) L'intervenant n'a pas le droit d'avoir accès à un dossier ou à une partie d'un dossier si la divulgation devait entraîner une des conséquences énumérées au paragraphe 14 (1) de la loi intitulée *Freedom of Information and Protection of Privacy Act, 1987* («*Loi de 1987 sur l'accès à l'information et la protection de la vie privée*») (exécution de la loi).

**27** Les règles suivantes s'appliquent lorsque l'intervenant a le droit d'accéder à un dossier :

1. L'intervenant a le droit de se voir accorder l'accès au dossier au plus tard quatre jours ouvrables après avoir demandé l'accès.
2. L'intervenant n'a pas le droit d'avoir accès à des renseignements dans le dossier qui sont des renseignements personnels au sens de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* et qui concernent des particuliers à l'égard desquels aucun consentement n'a été donné.
3. L'intervenant n'a pas le droit de faire des recherches parmi les dossiers que garde l'établissement.
4. L'intervenant a le droit de copier le dossier ou des extraits du dossier par tout moyen qui n'abîme pas le dossier.
5. À la demande de l'intervenant et dans un délai raisonnable, l'établissement fournit à l'intervenant des photocopies de l'ensemble ou d'une partie du dossier. L'intervenant paie le montant

Accès aux dossiers, consentement de la Commission

Critères

Exception, privilège du secret professionnel de l'avocat

Exception, exécution de la loi

Règles visant l'accès aux dossiers

regulations made under this Act for any photocopies in excess of twenty pages.

6. If the person in charge of the facility consents, the advocate may remove records from the facility for copying.
7. The advocate shall give a receipt for the records being removed and shall return them within two business days.
8. Records needed for the vulnerable person's current care shall not be removed from the facility.

Warrant for  
access to  
record

**28.**—(1) A justice of the peace may issue a warrant for access to a record to an advocate if satisfied that,

- (a) the record relates to a vulnerable person and is in the custody or control of a facility;
- (b) in the case of a right of access conferred by subsection 24 (1), the vulnerable person consents;
- (c) in the case of a right of access conferred by subsection 25 (1), the Commission consents; and
- (d) the advocate has been refused access to the record, or has been refused copies and has been refused permission to remove the record from the facility for copying.

Authority  
conferred by  
warrant

(2) The warrant authorizes the advocate to,

- (a) inspect the record specified in the warrant, between 9 a.m. and 4 p.m. or during the hours specified in the warrant, subject to paragraph 2 of section 27;
- (b) make copies or extracts from the record in any manner that does not damage the record; and
- (c) remove the record from the facility, subject to paragraphs 7 and 8 of section 27.

Duration of  
warrant

(3) The warrant is valid for seven days.

Execution

(4) The advocate named in the warrant may call on a police officer for assistance in executing it.

#### CONFIDENTIALITY

Definition,  
"record"

**29.** In sections 30 to 33, "record" has the same meaning as in the *Freedom of Information and Protection of Privacy Act, 1987*.

prescrit par les règlements pris en application de la présente loi s'il fait photocopier plus de vingt pages.

6. Si la personne responsable de l'établissement y consent, l'intervenant peut emporter des dossiers de l'établissement aux fins de reproduction.
7. L'intervenant donne un récépissé pour les dossiers qu'il emporte et remet ces derniers dans les deux jours ouvrables qui suivent.
8. Les dossiers nécessaires pour assurer les soins courants de la personne vulnérable ne doivent pas être emportés de l'établissement.

**28** (1) Un juge de paix peut décerner à un intervenant un mandat aux fins d'accès à un dossier s'il est convaincu des faits suivants :

Mandat aux  
fins d'accès  
aux dossiers

- a) le dossier concerne une personne vulnérable et se trouve sous la garde ou le contrôle de l'établissement;
- b) dans le cas du droit d'accès conféré par le paragraphe 24 (1), la personne vulnérable y consent;
- c) dans le cas du droit d'accès conféré par le paragraphe 25 (1), la Commission y consent;
- d) l'intervenant s'est vu refuser l'accès au dossier, ou s'est vu refuser des copies ou la permission d'emporter le dossier de l'établissement aux fins de reproduction.

(2) Le mandat autorise l'intervenant :

Pouvoirs con-  
férés par le  
mandat

- a) à examiner le dossier qui y est précisé, entre 9 h et 16 h ou aux heures précisées dans le mandat, sous réserve de la disposition 2 de l'article 27;
- b) à copier le dossier ou des extraits du dossier par tout moyen qui n'abîme pas le dossier;
- c) à emporter le dossier de l'établissement, sous réserve des dispositions 7 et 8 de l'article 27.

(3) Le mandat expire au bout de sept jours.

Durée du  
mandat

(4) L'intervenant peut faire appel à un agent de police pour l'aider à exécuter le mandat.

Exécution du  
mandat

#### CONFIDENTIALITÉ

**29** Dans les articles 30 à 33, «document» a le même sens que dans la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée*.

Définition,  
«document»



Duty of  
Commission  
advocates

**30.**—(1) An advocate who works for the Commission shall preserve secrecy in respect of all information about a vulnerable person obtained in the course of his or her duties and not contained in a record, except as subsections (3) to (6) provide.

Idem,  
community  
programs

(2) An advocate who works in a community program shall preserve secrecy in respect of all information about a vulnerable person obtained in the course of his or her duties, except as subsections (3) to (6) provide.

Permitted  
disclosure

(3) An advocate may disclose information about a vulnerable person obtained in the course of his or her duties,

- (a) to the vulnerable person, subject to subsection 24 (3) (clinical record);
- (b) to any other person, subject to subsection 24 (3), with the vulnerable person's consent;
- (c) to other persons who work for the Commission, if the advocate works for the Commission and the disclosure is necessary in connection with the Commission's provision of advocacy services;
- (d) to other persons who work in a community program, if the advocate works in the community program and the disclosure is necessary in connection with the program's provision of advocacy services;
- (e) to the advocate's lawyer;
- (f) in a proceeding brought against the advocate by or on behalf of the vulnerable person or his or her estate.

Idem,  
serious  
bodily harm

(4) If an advocate has information that constitutes reasonable grounds to believe that a vulnerable person is likely to cause serious bodily harm to another person, the advocate may disclose the information to the appropriate authorities.

Required  
disclosure

(5) An advocate shall disclose information about a vulnerable person obtained in the course of his or her duties,

- (a) to any person, subject to subsection 24 (3), at the vulnerable person's request;
- (b) to a person who works for the Commission, at the Commission's request.

**30** (1) L'intervenant qui travaille pour la Commission est tenu au secret à l'égard des renseignements qu'il obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions et qui ne sont pas contenus dans un document, sous réserve des paragraphes (3) à (6).

(2) L'intervenant qui travaille dans le cadre d'un programme communautaire est tenu au secret à l'égard des renseignements qu'il obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions, sous réserve des paragraphes (3) à (6).

(3) L'intervenant peut divulguer les renseignements qu'il obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions aux personnes suivantes :

- a) la personne vulnérable, sous réserve du paragraphe 24 (3) (dossier clinique);
- b) toute autre personne, sous réserve du paragraphe 24 (3), avec le consentement de la personne vulnérable;
- c) les autres personnes qui travaillent pour la Commission, si l'intervenant travaille pour la Commission et que la divulgation est nécessaire à l'égard des services d'intervention fournis par la Commission;
- d) les autres personnes qui travaillent dans le cadre du programme communautaire, si l'intervenant travaille dans le cadre du programme communautaire et que la divulgation est nécessaire à l'égard des services d'intervention fournis dans le cadre du programme;
- e) l'avocat de l'intervenant;
- f) dans le cadre d'une instance intentée contre l'intervenant par la personne vulnérable ou en son nom, ou par sa succession.

(4) Si l'intervenant a des renseignements qui lui donnent des motifs raisonnables de croire qu'une personne vulnérable causera vraisemblablement des lésions corporelles graves à une autre personne, l'intervenant peut divulguer les renseignements aux autorités compétentes.

(5) L'intervenant divulgue les renseignements qu'il obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions aux personnes suivantes :

- a) toute personne, sous réserve du paragraphe 24 (3), à la demande de la personne vulnérable;
- b) une personne qui travaille pour la Commission, à la demande de cette dernière.

Devoir des  
intervenants  
de la Com-  
mission

Idem, pro-  
grammes  
communautai-  
res

Divulgation  
permise

Idem, lésions  
corporelles

Divulgation  
obligatoire

Idem, testimony in proceeding

(6) An advocate may be required to testify in a proceeding with regard to information about a vulnerable person obtained in the course of his or her duties, but only,

- (a) with the vulnerable person's consent;
- (b) in an inquest held under the *Coroners Act* in connection with the vulnerable person's death;
- (c) in a proceeding before a court, if the court determines, after a hearing held on notice to the vulnerable person and in the absence of the public, that the disclosure is essential in the interests of justice;
- (d) in a proceeding, other than one referred to in clause (b), before a body other than a court, if the Divisional Court determines, after a hearing held on notice to the vulnerable person and in the absence of the public, that the disclosure is essential in the interests of justice.

Duty of Commission members and staff

**31.—(1)** A member of the Commission and a person, other than an advocate, who works for the Commission shall preserve secrecy in respect of all information about a vulnerable person obtained in the course of his or her duties and not contained in a record, except as subsection (3) provides.

Idem, community programs

(2) A person, other than an advocate, who works in a community program shall preserve secrecy in respect of all information about a vulnerable person obtained in the course of his or her duties, except as subsection (3) provides.

Disclosure on instructions of Commission

(3) A member of the Commission and a person, other than an advocate, who works for the Commission or in a community program shall disclose information about a vulnerable person obtained in the course of his or her duties, on the written instructions of the Commission and in the manner and to the person specified in the instructions.

Criteria

(4) The Commission shall give instructions for disclosure only if it is of the opinion that the advocate who originally obtained the information should have disclosed it under this Act.

Transition, existing advocacy programs

**32.** Sections 30 and 31 also apply to any information about a vulnerable person that an advocate, member of the Commission or other person who works for the Commission

(6) L'intervenant peut être tenu, dans une instance, de témoigner sur des renseignements qu'il a obtenus au sujet d'une personne vulnérable dans l'exercice de ses fonctions, mais seulement dans les cas suivants :

- a) s'il a le consentement de la personne vulnérable;
- b) au cours d'une enquête tenue aux termes de la loi intitulée *Coroners Act* («*Loi sur les coroners*») au sujet du décès de la personne vulnérable;
- c) dans une instance devant un tribunal, si celui-ci décide, après avoir tenu une audience sur préavis à la personne vulnérable et à huis clos, que la divulgation des renseignements est essentielle dans l'intérêt de la justice;
- d) dans une instance, autre qu'une instance visée à l'alinéa b), tenue devant un organisme autre qu'un tribunal, si la Cour divisionnaire décide, après avoir tenu une audience sur préavis à la personne vulnérable et à huis clos, que la divulgation des renseignements est essentielle dans l'intérêt de la justice.

**31** (1) Le membre de la Commission, et la personne, autre que l'intervenant, qui travaille pour la Commission sont tenus au secret à l'égard des renseignements qu'ils obtiennent au sujet d'une personne vulnérable dans l'exercice de leurs fonctions et qui ne sont pas contenus dans un document, sous réserve du paragraphe (3).

(2) La personne, autre que l'intervenant, qui travaille dans le cadre d'un programme communautaire est tenue au secret à l'égard des renseignements qu'elle obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions, sous réserve du paragraphe (3).

(3) Le membre de la Commission, et la personne, autre que l'intervenant, qui travaille pour la Commission ou dans le cadre d'un programme communautaire divulguent les renseignements qu'ils obtiennent au sujet d'une personne vulnérable dans l'exercice de leurs fonctions, sur les instructions écrites de la Commission et de la manière et aux personnes qui y sont précisées.

(4) La Commission ne donne des instructions en vue de la divulgation de renseignements que si elle est d'avis que l'intervenant qui a obtenu les renseignements à l'origine aurait dû les divulguer aux termes de la présente loi.

**32** Les articles 30 et 31 s'appliquent aussi aux renseignements qu'un intervenant, un membre de la Commission ou une autre personne travaillant pour la Commission ou

Idem, témoignage dans une instance

Devoir des membres et du personnel de la Commission

Idem, programmes communautaires

Divulgence sur les instructions de la Commission

Critères

Disposition transitoire, programmes d'intervention existants



or in a community program obtained in the course of his or her duties in connection with an advocacy program that was not operated under this Act.

Duty of Commission advocates, members and staff

**33.**—(1) An advocate who works for the Commission, a member of the Commission and a person, other than an advocate, who works for the Commission shall preserve secrecy in respect of all information obtained in the course of his or her duties that relates to the provision of advocacy services in accordance with clause 7 (1) (c) and that is not contained in a record, except as subsection (3) provides.

Idem, community programs

(2) A person, including an advocate, who works in a community program shall preserve secrecy in respect of all information obtained in the course of his or her duties that relates to the provision of advocacy services in accordance with clause 7 (1) (c), except as subsection (3) provides.

Permitted disclosure

(3) The persons referred to in subsections (1) and (2) may disclose information to each other and to vulnerable persons as may be required in connection with the provision of advocacy services in accordance with clause 7 (1) (c).

#### MISCELLANEOUS

Offence, obstructing advocate

**34.**—(1) No person shall hinder or obstruct an advocate,

(a) who is exercising the right of entry conferred by subsection 19 (1) (right of entry to facility), or is seeking to do so;

(b) who is meeting with a vulnerable person in accordance with subsection 19 (2), or is seeking to do so.

Exception

(2) Subsection (1) does not apply to a vulnerable person in the facility.

Offence, obstructing access to records

(3) No person shall hinder or obstruct an advocate who is exercising the right of access to records conferred by subsection 24 (1) or 25 (1), or is seeking to do so.

Penalty

(4) A person who contravenes subsection (1) or (3) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$5,000 in the case of an individual and not exceeding \$25,000 in the case of a corporation.

Offence, improper disclosure by advocate

**35.**—(1) An advocate who discloses, in contravention of this Act, information about a vulnerable person obtained in the course of his or her duties is guilty of an offence and is

dans le cadre d'un programme communautaire ont obtenus au sujet d'une personne vulnérable dans l'exercice de leurs fonctions relatives à un programme d'intervention qui n'était pas offert aux termes de la présente loi.

**33** (1) L'intervenant qui travaille pour la Commission, le membre de la Commission et la personne, autre que l'intervenant, qui travaille pour la Commission sont tenus au secret à l'égard des renseignements qu'ils obtiennent au sujet d'une personne vulnérable dans l'exercice de leurs fonctions, qui se rapportent à la prestation de services d'intervention conformément à l'alinéa 7 (1) c) et qui ne sont pas contenus dans un document, sous réserve du paragraphe (3).

Devoir des intervenants, des membres et du personnel de la Commission

(2) La personne, y compris l'intervenant, qui travaille dans le cadre d'un programme communautaire est tenue au secret à l'égard des renseignements qu'elle obtient dans l'exercice de ses fonctions et qui se rapportent à la prestation de services d'intervention conformément à l'alinéa 7 (1) c), sous réserve du paragraphe (3).

Idem, programmes communautaires

(3) Les personnes visées aux paragraphes (1) et (2) peuvent se divulguer des renseignements entre elles ou les divulguer à des personnes vulnérables, selon les besoins à l'égard de la prestation de services d'intervention conformément à l'alinéa 7 (1) c).

Divulgence permise

#### DISPOSITIONS DIVERSES

**34** (1) Nul ne doit entraver un intervenant :

Infraction, entrave à l'intervenant

a) qui exerce le droit d'entrée que lui confère le paragraphe 19 (1) (droit d'entrée dans un établissement) ou qui cherche à l'exercer;

b) qui rencontre une personne vulnérable conformément au paragraphe 19 (2), ou qui cherche à le faire.

(2) Le paragraphe (1) ne s'applique pas à une personne vulnérable dans l'établissement.

Exception

(3) Nul ne doit entraver un intervenant qui exerce le droit d'accès à des dossiers que lui confère le paragraphe 24 (1) ou 25 (1), ou qui cherche à le faire.

Infraction, entrave à l'accès aux dossiers

(4) Quiconque contrevient au paragraphe (1) ou (3) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$ dans le cas d'un particulier et d'au plus 25 000 \$ dans le cas d'une personne morale.

Peine

**35** (1) L'intervenant qui, en contravention à la présente loi, divulgue des renseignements qu'il obtient au sujet d'une personne vulnérable dans l'exercice de ses fonctions est coupable d'une infraction et passible, sur

Infraction, divulgation irrégulière par l'intervenant

liable, on conviction, to a fine not exceeding \$5,000.

Application  
to other  
persons

(2) Subsection (1) also applies to members of the Commission and persons other than advocates who work for the Commission or in a community program.

Regulations

**36.** The Commission may, subject to the approval of the Lieutenant Governor in Council, make regulations,

- (a) respecting mechanisms for the provision of the advocacy services referred to in clauses 7 (1) (b), (c) and (d), including,
  - (i) providing for regional offices of the Commission and establishing their functions, and
  - (ii) providing for non-profit community programs;
- (b) establish minimum qualifications and educational standards for advocates;
- (c) establish procedures and standards governing the provision of the advocacy services referred to in clauses 7 (1) (b), (c) and (d);
- (d) providing that specified categories of advocacy services referred to in clause 7 (1) (b) may be provided, under specified circumstances, to vulnerable persons who are mentally incapable, specifying the categories and circumstances, and adopting guidelines for the determination of mental capacity;
- (e) prescribing categories of facilities for the purposes of section 17;
- (f) prescribing an amount per page to be paid for photocopies under paragraph 5 of section 27.

Money

**37.** The money required for the purposes of this Act shall be paid out of the Consolidated Revenue Fund until the 31st day of March, 1992 and after that day shall be paid out of the money appropriated by the Legislature for those purposes.

Commence-  
ment

**38.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**39.** The short title of this Act is the *Advocacy Act, 1991*.

déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Application  
aux autres  
personnes

(2) Le paragraphe (1) s'applique aussi aux membres de la Commission, et aux personnes, autres que les intervenants, qui travaillent pour la Commission ou dans le cadre d'un programme communautaire.

Règlements

**36** Sous réserve de l'approbation du lieutenant-gouverneur en conseil, la Commission peut, par règlement :

- a) traiter des mécanismes régissant la prestation des services d'intervention visés aux alinéas 7 (1) b), c) et d), et notamment :
  - (i) prévoir des bureaux régionaux de la Commission et établir leurs fonctions,
  - (ii) prévoir des programmes communautaires à but non lucratif;
- b) établir des normes de compétence et de formation minimales pour les intervenants;
- c) établir la procédure et les normes qui régissent la prestation des services d'intervention visés aux alinéas 7 (1) b), c) et d);
- d) prévoir que des catégories spécifiées de services d'intervention visés à l'alinéa 7 (1) b) puissent être fournis, dans des circonstances précisées, à des personnes vulnérables qui sont incapables mentalement, préciser les catégories et les circonstances, et adopter des lignes directrices permettant de déterminer la capacité mentale;
- e) prescrire les catégories d'établissements pour l'application de l'article 17;
- f) prescrire le montant à payer pour chaque page de photocopie faite dans le cadre de la disposition 5 de l'article 27.

**37** Les sommes nécessaires pour l'application de la présente loi sont prélevées sur le Trésor jusqu'au 31 mars 1992, après quoi elles sont prélevées sur les sommes affectées à cette fin par la Législature.

Sommes  
nécessaires

**38** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**39** Le titre abrégé de la présente loi est *Loi de 1991 sur l'intervention*.

Titre abrégé



## SCHEDULE

## Section 17

1. Facilities governed by or under the following Acts:

*Charitable Institutions Act*  
*Child and Family Services Act, 1984*  
*Community Psychiatric Hospitals Act*  
*Developmental Services Act*  
*Homes for Retarded Persons Act*  
*Homes for Special Care Act*  
*Homes for the Aged and Rest Homes Act*  
*Mental Health Act*  
*Mental Hospitals Act*  
*Ministry of Community and Social Services Act*  
*Ministry of Correctional Services Act*  
*Ministry of Health Act*  
*Nursing Homes Act*  
*Private Hospitals Act*  
*Public Hospitals Act*

2. Police detention facilities provided by municipalities under the *Police Services Act, 1990* and lock-up houses maintained under the *Municipal Act*.

## ANNEXE

## Article 17

1. Établissements régis par les lois suivantes ou en vertu de celles-ci :

*Charitable Institutions Act* («Loi sur les établissements de bienfaisance»)  
*Child and Family Services Act, 1984* («Loi de 1984 sur les services à l'enfance et à la famille»)  
*Community Psychiatric Hospitals Act* («Loi sur les hôpitaux psychiatriques communautaires»)  
*Developmental Services Act* («Loi sur les services aux personnes atteintes d'un handicap de développement»)  
*Homes for Retarded Persons Act* («Loi sur les foyers pour déficients mentaux»)  
*Homes for Special Care Act* («Loi sur les foyers de soins spéciaux»)  
*Homes for the Aged and Rest Homes Act* («Loi sur les foyers pour personnes âgées et les maisons de repos»)  
*Mental Health Act* («Loi sur la santé mentale»)  
*Mental Hospitals Act* («Loi sur les hôpitaux psychiatriques»)  
*Ministry of Community and Social Services Act* («Loi sur le ministère des Services sociaux et communautaires»)  
*Ministry of Correctional Services Act* («Loi sur le ministère des Services correctionnels»)  
*Ministry of Health Act* («Loi sur le ministère de la Santé»)  
*Nursing Homes Act* («Loi sur les maisons de soins infirmiers»)  
*Private Hospitals Act* («Loi sur les hôpitaux privés»)  
*Public Hospitals Act* («Loi sur les hôpitaux publics»)

2. Les établissements de détention de la police fournis par les municipalités en vertu de la loi intitulée *Police Services Act, 1990* («Loi de 1990 sur les services policiers») et les lieux de détention temporaire maintenus en vertu de la loi intitulée *Municipal Act* («Loi sur les municipalités»).







Bill 75

Government Bill

Projet de loi 75

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 75

### An Act to amend the Law Society Act

**The Hon. H. Hampton**  
Attorney General

## Projet de loi 75

### Loi portant modification de la Loi sur la Société du barreau

**L'honorable H. Hampton**  
Procureur général



1st Reading     April 23rd, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture     23 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The purpose of the Bill is to permit the admission of persons qualified to practise law outside Ontario as temporary members of The Law Society of Upper Canada. Temporary members are permitted to act as barristers and solicitors in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as Crown Attorneys or assistant Crown Attorneys.

The Bill amends only the English version of the *Law Society Act*. The Legislature has not yet adopted an official French version of the Act.

#### NOTE EXPLICATIVE

Le projet de loi vise à permettre l'admission au sein de la Société du barreau du Haut-Canada, en qualité de membres provisoires de la Société, des personnes habilitées à pratiquer le droit hors de l'Ontario. Les membres provisoires sont autorisés à agir en tant qu'avocats et procureurs au service du procureur général de l'Ontario ou, s'ils sont nommés, en vertu de la *Loi sur les procureurs de la Couronne*, en tant que procureurs de la Couronne ou procureurs adjoints de la Couronne.

Le projet de loi ne modifie que la version anglaise de la *Loi sur la Société du barreau*, la Législature n'ayant pas encore adopté de version française officielle de la Loi.

## An Act to amend the Law Society Act

## Loi portant modification de la Loi sur la Société du barreau

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clause 1 (c) of the *Law Society Act* is amended by inserting after “member” in the second line “and a temporary member”.

**2.** Section 16 of the Act is amended by adding the following subsection:

Idem (2) For the purposes of subsection (1), “member” does not include a temporary member.

**3.** The Act is amended by adding the following section:

Admission of  
temporary  
members

**28a.**—(1) On the request of the Attorney General, a person who is of good character and who is qualified to practise law outside Ontario may be admitted by Convocation as a temporary member of the Society for a specified period.

Canadian  
citizenship or  
residency not  
required

(2) A person need not be a Canadian citizen or a permanent resident of Canada to be admitted as a temporary member of the Society.

Limited right  
to practise

(3) For the period specified under subsection (1), a temporary member of the Society who has taken the oath or given the affirmation prescribed for temporary members by the rules shall be deemed to be called to the bar and admitted and enrolled as a solicitor and is entitled to act and practise as a barrister and solicitor in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as a Crown Attorney or as an assistant Crown Attorney.

Termination  
of temporary  
membership

(4) A person admitted as a temporary member of the Society for a specified period ceases to be a member at the end of the period.

**4.** Subsection 50 (1) of the Act is repealed and the following substituted:

Prohibition  
as to prac-  
tice, etc.

(1) Except where otherwise provided by law,

(a) no person, other than a member whose rights and privileges are not

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'alinéa 1 (c) de la loi intitulée *Law Society Act* («*Loi sur la Société du barreau*») est modifié par insertion, après le mot «member» à la deuxième ligne, des mots «and a temporary member».

**2** L'article 16 de la Loi est modifié par adjonction du paragraphe suivant :

**3** La Loi est modifiée par adjonction de l'article suivant :

**4** Le paragraphe 50 (1) de la Loi est abrogé et remplacé par ce qui suit :



suspended, shall act as a barrister or solicitor or hold himself or herself out as or represent himself or herself to be a barrister or solicitor or practise as a barrister or solicitor; and

- (b) no temporary member shall act as a barrister or solicitor or practise as a barrister or solicitor except to the extent permitted by subsection 28a (3).

**5. Paragraphs 12 and 15 of subsection 62 (1) of the Act are repealed and the following substituted:**

**5 Les dispositions 12 et 15 du paragraphe 62 (1) de la Loi sont abrogées et remplacées par ce qui suit :**

12. governing members and student members or any class of either of them, and prescribing their rights and privileges;

15. prescribing oaths and affirmations for members and student members or any class of either of them.

**6. Paragraph 1 of section 63 of the Act is amended by inserting after "student members" in the third line "or any class of either of them".**

**6 La disposition 1 de l'article 63 de la Loi est modifiée par insertion, après les mots «student members» à la troisième ligne, des mots «or any class of either of them».**

Commence-  
ment

**7. This Act comes into force on the day it receives Royal Assent.**

**7 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.**

Entrée en  
vigueur

Short title

**8. The short title of this Act is the *Law Society Amendment Act (Temporary Members), 1991*.**

**8 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la Société du barreau (membres provisoires)*.**

Titre abrégé

**Bill 75**

**Projet de loi 75**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 75**

*(Chapter 41  
Statutes of Ontario, 1991)*

**An Act to amend the  
Law Society Act**

**The Hon. H. Hampton**  
Attorney General

1st Reading      April 23rd, 1991  
2nd Reading      November 5th, 1991  
3rd Reading      November 18th, 1991  
Royal Assent      November 25th, 1991

**Projet de loi 75**

*(Chapitre 41  
Lois de l'Ontario de 1991)*

**Loi portant modification de la  
Loi sur la Société du barreau**

**L'honorable H. Hampton**  
Procureur général



1<sup>re</sup> lecture      23 avril 1991  
2<sup>e</sup> lecture      5 novembre 1991  
3<sup>e</sup> lecture      18 novembre 1991  
sanction royale      25 novembre 1991



## An Act to amend the Law Society Act

## Loi portant modification de la Loi sur la Société du barreau

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Clause 1 (c) of the *Law Society Act* is amended by inserting after “member” in the second line “and a temporary member”.**

**2. Section 16 of the Act is amended by adding the following subsection:**

*Idem*

(2) For the purposes of subsection (1), “member” does not include a temporary member.

**3. The Act is amended by adding the following section:**

Admission of  
temporary  
members

**28a.—**(1) On the request of the Attorney General, a person who is of good character and who is qualified to practise law outside Ontario may be admitted by Convocation as a temporary member of the Society for a specified period.

Canadian  
citizenship or  
residency not  
required

(2) A person need not be a Canadian citizen or a permanent resident of Canada to be admitted as a temporary member of the Society.

Limited right  
to practise

(3) For the period specified under subsection (1), a temporary member of the Society who has taken the oath or given the affirmation prescribed for temporary members by the rules shall be deemed to be called to the bar and admitted and enrolled as a solicitor and is entitled to act and practise as a barrister and solicitor in the employ of the Attorney General for Ontario or, if appointed under the *Crown Attorneys Act*, as a Crown Attorney or as an assistant Crown Attorney.

Termination  
of temporary  
membership

(4) A person admitted as a temporary member of the Society for a specified period ceases to be a member at the end of the period.

**4. Subsection 50 (1) of the Act is repealed and the following substituted:**

Prohibition  
as to prac-  
tice, etc.

(1) Except where otherwise provided by law,

(a) no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold himself or herself out as or represent himself or herself to be a barrister or solicitor or practise as a barrister or solicitor; and

(b) no temporary member shall act as a barrister or solicitor or practise as a barrister or solicitor except to the extent permitted by subsection 28a (3).

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 L'alinéa 1 (c) de la loi intitulée *Law Society Act* («*Loi sur la Société du barreau*») est modifié par insertion, après le mot «member» à la deuxième ligne, des mots «and a temporary member».**

**2 L'article 16 de la Loi est modifié par adjonction du paragraphe suivant :**

**3 La Loi est modifiée par adjonction de l'article suivant :**

**4 Le paragraphe 50 (1) de la Loi est abrogé et remplacé par ce qui suit :**



**5. Paragraphs 12 and 15 of subsection 62 (1) of the Act are repealed and the following substituted:**

12. governing members and student members or any class of either of them, and prescribing their rights and privileges;

15. prescribing oaths and affirmations for members and student members or any class of either of them.

**6. Paragraph 1 of section 63 of the Act is amended by inserting after "student members" in the third line "or any class of either of them".**

**7. This Act comes into force on the day it receives Royal Assent.**

**8. The short title of this Act is the *Law Society Amendment Act (Temporary Members)*, 1991.**

**5 Les dispositions 12 et 15 du paragraphe 62 (1) de la Loi sont abrogées et remplacées par ce qui suit :**

**6 La disposition 1 de l'article 63 de la Loi est modifiée par insertion, après les mots «student members» à la troisième ligne, des mots «or any class of either of them».**

**7 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.**

**8 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la Société du barreau (membres provisoires)*.**

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé

CA 2  
XB  
B56

Bill 76	Government Bill	Projet de loi 76	du gouvernement
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1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 76

**An Act to repeal the  
Fraudulent Debtors  
Arrest Act**

**The Hon. H. Hampton**  
Attorney General

## Projet de loi 76

**Loi portant abrogation de la  
Loi sur l'arrestation des  
débiteurs en fuite**

**L'honorable H. Hampton**  
Procureur général



1st Reading      April 23rd, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture      23 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

EXPLANATORY NOTE

Self-explanatory.

NOTE EXPLICATIVE

Aucune explication nécessaire.

**An Act to repeal the  
Fraudulent Debtors  
Arrest Act**

**Loi portant abrogation de la  
Loi sur l'arrestation des  
débiteurs en fuite**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Repeal	<b>1.—(1) The <i>Fraudulent Debtors Arrest Act</i> is repealed.</b>	<b>1 (1) La loi intitulée <i>Fraudulent Debtors Arrest Act</i> («<i>Loi sur l'arrestation des débiteurs en fuite</i>») est abrogée.</b>	Abrogation
Proceedings discontinued	<b>(2) All proceedings under the repealed Act are discontinued without costs.</b>	<b>(2) Toutes les instances introduites en vertu de la loi abrogée sont abandonnées sans dépens.</b>	Abandon
Orders remain enforceable	<b>(3) This Act does not affect the enforceability of orders made under the repealed Act other than arrest orders.</b>	<b>(3) La présente loi n'a pas pour effet d'empêcher l'exécution des ordonnances rendues en vertu de la loi abrogée autres que les mandats d'arrêt.</b>	Les ordonnances demeurent exécutoires
Exception, arrest orders	<b>(4) Orders for anyone's arrest made under the repealed Act are unenforceable and anyone in custody under such an order shall be released immediately.</b>	<b>(4) Les mandats décernés pour l'arrestation de quiconque en vertu de la loi abrogée ne sont pas exécutoires et quiconque est détenu en vertu d'un tel mandat doit immédiatement être mis en liberté.</b>	Exception, mandats d'arrêt
Commencement	<b>2. This Act comes into force on the day it receives Royal Assent.</b>	<b>2 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.</b>	Entrée en vigueur
Short title	<b>3. The short title of this Act is the <i>Fraudulent Debtors Arrest Repeal Act, 1991</i>.</b>	<b>3 Le titre abrégé de la présente loi est <i>Loi de 1991 abrogeant la Loi sur l'arrestation des débiteurs en fuite</i>.</b>	Titre abrégé





**Bill 76**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 76**

*(Chapter 42  
Statutes of Ontario, 1991)*

**An Act to repeal the  
Fraudulent Debtors  
Arrest Act**

**The Hon. H. Hampton**  
Attorney General

1st Reading      April 23rd, 1991  
2nd Reading      November 5th, 1991  
3rd Reading      November 18th, 1991  
Royal Assent      November 25th, 1991

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**Projet de loi 76**

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Projet de loi 76**

*(Chapitre 42  
Lois de l'Ontario de 1991)*

**Loi portant abrogation de la  
Loi sur l'arrestation des  
débiteurs en fuite**

**L'honorable H. Hampton**  
Procureur général

1<sup>re</sup> lecture      23 avril 1991  
2<sup>e</sup> lecture      5 novembre 1991  
3<sup>e</sup> lecture      18 novembre 1991  
sanction royale      25 novembre 1991

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**An Act to repeal the  
Fraudulent Debtors  
Arrest Act**

**Loi portant abrogation de la  
Loi sur l'arrestation des  
débiteurs en fuite**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**Repeal**            **1.—(1)** The *Fraudulent Debtors Arrest Act* is repealed.

**1** (1) La loi intitulée *Fraudulent Debtors Arrest Act* («*Loi sur l'arrestation des débiteurs en fuite*») est abrogée.

Abrogation

**Proceedings discontinued**    (2) All proceedings under the repealed Act are discontinued without costs.

(2) Toutes les instances introduites en vertu de la loi abrogée sont abandonnées sans dépens.

Abandon

**Orders remain enforceable**    (3) This Act does not affect the enforceability of orders made under the repealed Act other than arrest orders.

(3) La présente loi n'a pas pour effet d'empêcher l'exécution des ordonnances rendues en vertu de la loi abrogée autres que les mandats d'arrêt.

Les ordonnances demeurent exécutoires

**Exception, arrest orders**    (4) Orders for anyone's arrest made under the repealed Act are unenforceable and anyone in custody under such an order shall be released immediately.

(4) Les mandats décernés pour l'arrestation de quiconque en vertu de la loi abrogée ne sont pas exécutoires et quiconque est détenu en vertu d'un tel mandat doit immédiatement être mis en liberté.

Exception, mandats d'arrêt

**Commencement**            **2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

**Short title**            **3.** The short title of this Act is the *Fraudulent Debtors Arrest Repeal Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 abrogeant la Loi sur l'arrestation des débiteurs en fuite*.

Titre abrégé





Bill 77

Private Member's Bill

Projet de loi 77

de député

1st SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 77

**An Act respecting Access to the Courts**

**Mr. Scott**

1st Reading     April 24th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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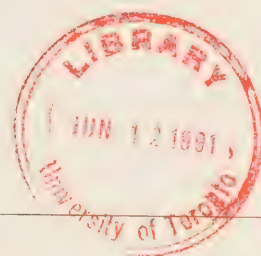
## Projet de loi 77

**Loi concernant l'accès aux tribunaux**

**M. Scott**

1<sup>re</sup> lecture     24 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTE

The Bill would change the law of standing by providing that any person has standing to bring an action or other proceeding unless another party can show that the factors that favour allowing the person to bring the action are outweighed by those against. The Bill would require the court to consider a number of factors in making that determination. No proceeding could be dismissed solely on the ground that the person who brought it had no personal, proprietary or pecuniary interest in it or had suffered or might suffer the same injury or harm as other persons; further, no person could be denied leave to intervene in a proceeding solely because the Attorney General was a party or intervenor. Questions concerning the right of a person to bring a proceeding would generally be deferred until after consideration of the merits of the case. If a person sought to enjoin conduct that was an offence under an Ontario or federal statute, the person would have to give notice to the appropriate Minister.

The Bill would also prohibit the awarding of costs against a person who brought a proceeding or intervened in one except under certain conditions, and allow a person bringing a proceeding who was immune from costs and the person's solicitor to agree that the solicitor would not be paid unless the proceeding was successful.

If a person successfully resisted a challenge to the person's right to bring a proceeding, the Bill would require that costs be awarded against the challenger on a solicitor and client scale unless the court felt that the challenge, although unsuccessful, was reasonable.

## NOTE EXPLICATIVE

Le projet de loi modifie la loi sur la qualité pour agir en ce qui concerne car il prévoit que toute personne a la qualité pour intenter une action ou pour introduire une instance à moins qu'une autre partie ne puisse montrer que les facteurs voulant qu'il ne soit pas permis à cette personne d'intenter l'action l'emportent sur ceux voulant que cette permission lui soit accordée. Le projet de loi exige du tribunal qu'il examine un certain nombre de facteurs avant de rendre une décision. Nulle instance ne peut être rejetée du seul fait que la personne qui l'a introduite n'a aucun intérêt personnel ou pécuniaire ni aucun intérêt à titre de propriétaire à son égard ou du fait qu'elle a subi ou pourrait subir la même lésion ou le même préjudice que d'autres personnes. En outre, il ne peut être refusé à personne l'autorisation d'intervenir dans une instance du seul fait que le procureur général est une partie ou un intervenant. Les questions concernant le droit d'une personne d'introduire une instance sont maintenant reportées à plus tard dans la plupart des cas jusqu'à ce que la cause ait été examinée sur le fond. Si une personne cherche à empêcher une conduite qui constitue une infraction à une loi de l'Ontario ou à une loi fédérale, la personne doit en aviser le ministre concerné.

Le projet de loi interdit également de condamner aux dépens la personne qui introduit une instance ou qui intervient dans une instance, sauf dans certaines conditions, et permet à la personne qui introduit une instance et qui jouit d'une immunité à l'égard des dépens ainsi qu'à son procureur de convenir que ce dernier ne soit pas payé à moins qu'elle n'obtienne gain de cause dans l'instance.

Si une personne dont le droit d'introduire une instance est contesté obtient gain de cause, le projet de loi exige que le contestataire soit condamné aux dépens calculés sur une base procureur-client, à moins que le tribunal ne soit d'avis que la contestation, quoique rejetée, n'ait été raisonnable.

## An Act respecting Access to the Courts

## Loi concernant l'accès aux tribunaux

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Purpose	<b>1.</b> The purpose of this Act is to increase access to the courts.	Objet
Standing	<b>2.—(1)</b> Any person may commence and maintain a proceeding unless a party to it satisfies the court that the factors against allowing the person to commence and maintain the proceeding outweigh those in favour.	Qualité pour agir
Factors	<p>(2) In making a determination under subsection (1), the court shall consider,</p> <p>(a) whether allowing the person to commence and maintain the proceeding would be unfair to the persons affected;</p> <p>(b) whether there is another reasonable and effective way to raise the issues that the person who commenced the proceeding is seeking to litigate; and</p> <p>(c) if the issues in the proceeding arise in another proceeding against the same defendant or respondent, whether the interests of the person who commenced the proceeding can be met by intervening in the other proceeding and whether it is reasonable to expect that person to do so.</p>	Facteurs
Unfairness	(3) For purposes of clause (2) (a), the fact that the result of the proceeding may affect a person whose interest is personal, proprietary or pecuniary is not necessarily unfair.	Injustice
Other factors	(4) In addition to the factors mentioned in subsection (2), if the interest of the plaintiff is not personal, proprietary or pecuniary, the court shall consider whether the issues raised in the proceeding are trivial, the number of persons affected by the proceeding in any way, whether personally or otherwise, and any other factor the court considers relevant.	Autres facteurs
No dismissal	(5) No proceeding shall be dismissed and no pleading struck out only on the ground	Rejet interdit

**1** La présente loi a pour objet d'augmenter l'accès aux tribunaux.

**2 (1)** Toute personne peut introduire une instance et la maintenir à moins qu'une partie à l'instance ne convainque le tribunal que les facteurs voulant qu'il ne soit pas permis à cette personne d'introduire l'instance et de la maintenir l'emportent sur ceux voulant que cette permission lui soit accordée.

(2) Avant de rendre une décision en vertu du paragraphe (1), le tribunal détermine :

- a) s'il serait injuste pour les personnes concernées de permettre à la personne d'introduire l'instance et de la maintenir;
- b) s'il existe une autre façon raisonnable et efficace de soulever les questions en litige que la personne qui a introduit l'instance cherche à faire valoir;
- c) si les questions faisant l'objet de l'instance sont soulevées dans une autre instance contre le même défendeur ou le même intimé, si les intérêts de la personne qui a introduit l'instance peuvent être servis par une intervention dans l'autre instance et s'il est raisonnable de s'attendre à ce que cette personne le fasse.

(3) Pour l'application de l'alinéa (2) a), ne constitue pas nécessairement une injustice le fait que le résultat de l'instance puisse toucher une personne ayant un intérêt personnel ou pécuniaire ou un intérêt à titre de propriétaire.

(4) Outre les facteurs mentionnés au paragraphe (2), si le demandeur n'a aucun intérêt personnel ou pécuniaire ni aucun intérêt à titre de propriétaire, le tribunal détermine si les questions soulevées dans l'instance sont futiles, le nombre de personnes touchées par celle-ci, personnellement ou de toute autre façon, ainsi que tout autre facteur qu'il estime pertinent.

(5) Nulle instance ne peut être rejetée et nul acte de procédure ne peut être radié du



that the person who commenced the proceeding has no personal, proprietary or pecuniary interest in the proceeding or has suffered or may suffer injury or harm of the same kind or to the same degree as other persons.

Intervenor

(6) No party shall be denied leave to intervene in a proceeding only because the Attorney General is a party or intervenor in the proceeding.

Other rights

(7) The provisions in this Act for the commencement and maintenance of a proceeding are in addition to and not in derogation of any right to commence and maintain a proceeding conferred by or under any other Act.

Deferral

**3.—**(1) The determination of any question concerning the right of a person to commence and maintain a proceeding shall be deferred by the court until after the hearing of the merits of the case unless the court is satisfied that in the particular circumstances of the case it is desirable to determine the question at an earlier time.

No appeal

(2) No appeal lies from a decision of the court to defer the determination of a question under subsection (1).

Application to enjoin

**4.—**(1) A person who commences a proceeding to enjoin conduct that is an offence under an Act of the Parliament of Canada or the Legislature shall give notice of the commencement to the Minister who is responsible for the administration of the statute.

Criminal Code

(2) If the statute is the *Criminal Code* (Canada), notice shall be given to the Attorney General for Ontario.

Further notice

(3) Further notice shall be given to such other Minister as the court may direct.

Costs

**5.—**(1) No costs shall be awarded against a person who commences a proceeding if,

- (a) the proceeding involves issues whose importance extends beyond the immediate interests of the parties;
- (b) the issues in the proceeding have not previously been determined by a court in another proceeding against the same defendant;
- (c) the conduct of the person who commenced the proceeding is not vexatious, frivolous or abusive;
- (d) any personal, proprietary or pecuniary interest that the person has in the outcome clearly does not justify the proceeding on economic grounds; and

seul fait que la personne qui a introduit l'instance n'a aucun intérêt personnel ou pécuniaire ni aucun intérêt à titre de propriétaire dans l'instance ou qu'elle a subi ou peut subir une lésion ou un préjudice du même genre ou au même degré que d'autres personnes.

Intervenant

(6) Il ne peut être refusé à aucune partie l'autorisation d'intervenir dans une instance du seul fait que le procureur général est partie à l'instance ou un intervenant dans celle-ci.

Autres droits

(7) Les dispositions de la présente loi en ce qui a trait à l'introduction et au maintien d'une instance s'ajoutent à tout droit d'introduire et de maintenir une instance qui est conféré par toute autre loi ou en vertu de toute autre loi, sans porter atteinte à ce droit.

Renvoi

**3** (1) Le tribunal attend d'avoir entendu la cause sur le fond avant de rendre une décision sur toute question concernant le droit d'une personne d'introduire une instance et de la maintenir, à moins que le tribunal ne soit convaincu qu'étant donné les circonstances particulières de la cause, il est souhaitable de rendre cette décision plus tôt.

Décision sans appel

(2) Il ne peut être interjeté appel d'aucune décision du tribunal de reporter à plus tard la décision d'une question prévue au paragraphe (1).

Requête en empêchement

**4** (1) Quiconque introduit une instance en vue d'empêcher une conduite qui constitue une infraction à une loi du Parlement du Canada ou de la Législature en avise le ministre chargé de l'application de la loi.

Code criminel

(2) Si la loi est le *Code criminel* (Canada), l'avis est donné au procureur général de l'Ontario.

Avis additionnel

(3) Un autre avis est donné à tout autre ministre que le tribunal peut ordonner.

Dépens

**5** (1) Nulle personne qui introduit une instance n'est condamnée aux dépens si :

- a) l'instance met en cause des questions dont l'importance dépasse les intérêts immédiats des parties;
- b) les questions faisant l'objet de l'instance n'ont pas déjà été tranchées par un tribunal dans une autre instance contre le même défendeur;
- c) la conduite de la personne qui a introduit l'instance n'est pas vexatoire, frivole ou abusive;
- d) l'intérêt personnel ou pécuniaire ou l'intérêt à titre de propriétaire que la personne espère tirer de l'issue de l'instance ne justifie pas l'instance sur le plan économique;

(e) the defendant is clearly more able to bear the costs of the proceeding.

e) le défendeur est visiblement plus en mesure d'assumer les dépens de l'instance.

Motions

(2) Subsection (1) does not apply to costs awarded on motions.

(2) Le paragraphe (1) ne s'applique pas aux dépens de motions.

Motions

Declaration

(3) The court may upon motion at any time in a proceeding make a declaratory order determining whether subsection (1) applies to a party.

(3) Le tribunal peut, sur motion présentée à n'importe quel moment au cours de l'instance, rendre une ordonnance déclaratoire selon laquelle le paragraphe (1) s'applique à une partie ou non.

Déclaration

Security

(4) No order for security for costs shall be made against a person immune from costs under subsection (1).

(4) Nulle ordonnance de cautionnement pour dépens ne peut être rendue contre une personne qui jouit d'une immunité à l'égard des dépens aux termes du paragraphe (1).

Cautionnement

Settlement

(5) If a party having an immunity from costs is successful and the judgment is not more favourable than an offer of settlement that was made and served by an opposing party, the successful party is entitled to party and party costs incurred only up to the time that the offer of settlement was served, but the court may award party and party costs incurred after that date.

(5) Si une partie qui jouit d'une immunité à l'égard des dépens obtient gain de cause et que le jugement n'est pas plus favorable qu'une offre de transaction qui a été faite et signifiée par une partie adverse, la partie qui a obtenu gain de cause a droit aux dépens partie-partie engagés à la date de la signification de l'offre de transaction, mais le tribunal peut adjuger les dépens partie-partie engagés après cette date.

Transaction

Agreement

**6.—(1)** A person who has an immunity from costs under subsection 5 (1) and the person's solicitor may agree that the solicitor is entitled to be paid fees, costs, disbursements or charges only if the proceeding is successful.

**6 (1)** Une personne qui jouit d'une immunité à l'égard des dépens aux termes du paragraphe 5 (1) et son procureur peuvent convenir que le procureur n'a droit à des honoraires, aux dépens, aux débours ou aux frais que si la partie obtient gain de cause dans l'instance.

Convention

Content

(2) In an agreement under this section, the amount payable if the proceeding is successful shall not be expressed as a gross sum, commission or percentage, but it may include reasonable compensation for the solicitor's risk of not being paid.

(2) Dans la convention prévue au présent article, le montant payable s'il y a gain de cause ne doit pas être exprimé sous forme de pourcentage, de commission ou de somme brute, mais il peut comporter une rétribution raisonnable pour le risque que prend le procureur de ne pas être payé.

Contenu

Writing

(3) An agreement under this section must be in writing.

(3) La convention prévue au présent article doit être par écrit.

Convention par écrit

Standing challenged

**7.** If a person is successful in resisting a challenge to the person's right to commence and maintain a proceeding, costs in respect of the challenge shall be awarded on a solicitor and client scale, payable immediately, unless the court is satisfied that the challenge, although unsuccessful, was reasonable.

**7** Si une personne dont le droit d'introduire une instance et de la maintenir est contesté obtient gain de cause, les dépens relatifs à la contestation sont adjugés sur une base procureur-client et payable sans délai, à moins que le tribunal ne soit convaincu que la contestation, quoique rejetée, était raisonnable.

Contestation de la qualité pour agir

Intervenor's costs

**8.—(1)** No costs shall be awarded against an intervenor in a proceeding if,

**8 (1)** Un intervenant dans une instance n'est pas condamné aux dépens si :

Dépens de l'intervenant

(a) the proceeding involves issues whose importance extends beyond the immediate interests of the parties;

a) l'instance met en cause des questions dont l'importance dépasse les intérêts immédiats des parties;

(b) any personal, proprietary or pecuniary interest that the intervenor has in the outcome clearly does not justify the proceeding on economic grounds;

b) l'intérêt personnel ou pécuniaire ou l'intérêt à titre de propriétaire que l'intervenant espère tirer de l'issue de l'instance ne justifie pas l'instance sur le plan économique;

(c) the intervenor has contributed significantly to the resolution of the issues; and

(d) the conduct of the intervenor is not vexatious, frivolous or abusive.

Costs immunity

(2) No costs shall be awarded in an intervenor's favour against a party immune from costs under subsection 5 (1).

Commencement

**9.** This Act comes into force on the day it receives Royal Assent.

Short title

**10.** The short title of this Act is the *Access to Courts Act, 1991*.

c) l'intervenant a beaucoup aidé au règlement des questions;

d) la conduite de l'intervenant n'est pas vexatoire, frivole ou abusive.

(2) Une partie qui jouit d'une immunité à l'égard des dépens aux termes du paragraphe 5 (1) n'est pas condamnée aux dépens en faveur d'un intervenant.

Immunité à l'égard des dépens

**9** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

**10** Le titre abrégé de la présente loi est *Loi de 1991 sur l'accès aux tribunaux*.

Titre abrégé









Bill 78

Private Member's Bill

Projet de loi 78

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 78

**An Act to amend the Ministry of  
Colleges and Universities Act to require  
the approval of the Lieutenant  
Governor in Council for transactions  
respecting university lands**

**Mr. Perruzza**

1st Reading     April 24th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 78

**Loi portant modification de la Loi sur le  
ministère des Collèges et Universités en  
vue d'exiger l'approbation du  
lieutenant-gouverneur en conseil pour  
les opérations relatives à des biens-fonds  
des universités**

**M. Perruzza**



1<sup>re</sup> lecture     24 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to require the approval of the Lieutenant Governor in Council for sales, mortgages and long-term leases of university lands.

The Bill amends only the English version of the *Ministry of Colleges and Universities Act*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi a pour objet d'exiger l'obtention de l'approbation du lieutenant-gouverneur en conseil pour vendre ou hypothéquer des biens-fonds des universités, ou pour conclure des baux à long terme à l'égard de tels biens-fonds.

Le projet de loi ne modifie que la version anglaise de la *Loi sur le ministère des Collèges et Universités*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

**An Act to amend the Ministry of  
Colleges and Universities Act to  
require the approval of the Lieutenant  
Governor in Council for transactions  
respecting university lands**

**Loi portant modification de la Loi sur  
le ministère des Collèges et Universités  
en vue d'exiger l'approbation du  
lieutenant-gouverneur en conseil pour  
les opérations relatives à des biens-  
fonds des universités**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Ministry of Colleges and Universities Act* is amended by adding the following section:**

Disposal of  
property

**6.1—(1)** A university shall not dispose of an interest in real property without the approval of the Lieutenant Governor in Council.

Application

(2) Subsection (1) applies to all conveyances, all encumbrances including charges and mortgages, and all leases for periods of twenty years or more.

Commence-  
ment

**2. This Act comes into force on the day it receives Royal Assent.**

Short title

**3. The short title of this Act is the *Ministry of Colleges and Universities Amendment Act, 1991*.**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La loi intitulée *Ministry of Colleges and Universities Act* («*Loi sur le ministère des Collèges et Universités*») est modifiée par adjonction de l'article suivant :

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le ministère des Collèges et Universités*.

Entrée en  
vigueur

Titre abrégé





**Bill 79** **Government Bill** **Projet de loi 79** **du gouvernement**

1<sup>ST</sup> SESSION, 35<sup>TH</sup> LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 79

**An Act to amend the Gasoline Tax Act  
in respect of Liability for Tax on Trans-  
fers of Gasoline, Aviation Fuel or Pro-  
pane**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

## Projet de loi 79

**Loi portant modification de la Loi de la  
taxe sur l'essence concernant l'assujet-  
tissement à la taxe lors de transferts  
d'essence, de carburant aviation ou de  
propane**

**L'honorable S. Wark-Martyn**  
Ministre du Revenu

1st Reading     April 24th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture     24 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTES

**GENERAL.** The amendments set out in the Bill relate to the importation of aviation fuel into Ontario to fuel the aircraft of the persons doing the importing.

**SECTION 1.—Subsection 1.** The definition of “purchaser” is revised to remove the reference to importers.

**Subsection 2.** The definition of “delivery” is added to clarify that term as it is used in defining a “purchaser”. The term “fuel tank” is defined to clarify its meaning as it is used in defining “delivery”.

**SECTION 2.** The amendments impose liability for tax on non-purchasers who transfer aviation fuel into the fuel tank of aircraft in Ontario. Rates of tax are specified and returns are required.

**SECTION 3.** The amendment will require importers to pay a deposit equal to the tax payable when the imported fuel is purchased.

**SECTION 4.** Section 5 of the Act sets out the continuing liability of a purchaser. The new subsection imposes a similar liability on a person who is not a “purchaser” but who is liable to pay tax under the Act.

**SECTION 5.** Section 11 of the Act relates to assessments related to tax under the Act. The amendment is consequential on the amendments to section 2 of the Act.

**SECTION 6.** Section 16 of the Act relates to investigations related to tax under the Act. The amendments are consequential on the amendments to section 2 of the Act.

**SECTION 7.** Section 22 of the Act relates to false statements in documents, books or records. The amendments are consequential on the amendments to section 2 of the Act.

**SECTION 8.—Subsection 1.** Subsection 32 (2) of the Act authorizes the Minister of Revenue to make regulations.

**Subsection 2.** A general power is added to authorize “prescribing anything that the Minister is permitted or required by this Act to prescribe”.

The Bill amends only the English version of the *Gasoline Tax Act*. The Legislature has not yet adopted an official French version of this Act.

## NOTES EXPLICATIVES

**OBJET GÉNÉRAL** Les modifications qui figurent dans le projet de loi portent sur l'importation en Ontario de carburant aviation destiné à alimenter les aéronefs des personnes qui en assurent l'importation.

**ARTICLE 1—paragraphe 1** La définition du terme «purchaser» est modifiée afin de retirer toute mention des importateurs.

**Paragraphe 2** La définition du terme «delivery» est ajoutée afin d'en éclaircir le sens dans la définition du terme «purchaser». La définition de l'expression «fuel tank» permet d'en éclaircir le sens dans la définition du terme «delivery».

**ARTICLE 2** Les modifications ont pour effet d'assujettir à la taxe les personnes qui, bien que n'étant pas acheteurs, transfèrent du carburant aviation dans les réservoirs à carburant des aéronefs en Ontario. Les taux de la taxe payable y sont précisés ainsi que les déclarations nécessaires.

**ARTICLE 3** La modification a pour effet d'obliger les importateurs à verser un dépôt égal à la taxe payable lors de l'achat du carburant importé.

**ARTICLE 4** L'article 5 de la Loi maintient l'assujettissement à la taxe des acheteurs. Le nouveau paragraphe a pour effet d'imposer une obligation semblable aux personnes qui, bien que n'étant pas acheteurs, sont assujetties à la taxe aux termes de la Loi.

**ARTICLE 5** L'article 11 de la Loi porte sur les cotisations relatives à la taxe qui sont établies aux termes de la Loi. La modification découle de celles qui ont été apportées à l'article 2.

**ARTICLE 6** L'article 16 de la Loi porte sur les enquêtes relatives à la taxe qui sont menées aux termes de la Loi. Les modifications découlent de celles qui ont été apportées à l'article 2.

**ARTICLE 7** L'article 22 de la Loi porte sur les fausses déclarations faites dans des documents, des livres ou des dossiers. Les modifications découlent de celles qui ont été apportées à l'article 2.

**ARTICLE 8—paragraphe 1** Le paragraphe 32 (2) de la Loi autorise le ministre du Revenu à prendre des règlements.

**Paragraphe 2** Est prévu un nouveau pouvoir général qui permet de prescrire tout ce que le ministre peut ou doit prescrire aux termes de la Loi.

Le projet de loi ne modifie que la version anglaise de la *Loi de la taxe sur l'essence* puisque la Législature n'a pas encore adopté de version française officielle de cette loi.

**An Act to amend the Gasoline Tax Act  
in respect of Liability for Tax on  
Transfers of Gasoline, Aviation Fuel  
or Propane**

**Loi portant modification de la Loi de  
la taxe sur l'essence concernant  
l'assujettissement à la taxe lors de  
transferts d'essence, de carburant  
aviation ou de propane**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Clause 1 (h) of the *Gasoline Tax Act*, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, is repealed and the following substituted:

- (h) “purchaser” means a person who, within Ontario, purchases or receives delivery of gasoline, aviation fuel or propane for the person's own use or consumption or for use or consumption by others at the person's expense, or on behalf of or as agent for a principal who is acquiring the gasoline, aviation fuel or propane for use or consumption by the principal or by others at the principal's expense.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1, 1988, chapter 66, section 1 and 1989, chapter 45, sections 1 and 5, is further amended by adding the following clauses:

- (ca) “delivery” includes the physical transfer in Ontario of gasoline, aviation fuel or propane into the fuel tank of a motor vehicle or aircraft;
- (cb) “fuel tank” means the receptacle that supplies the engine or turbine in a motor vehicle or aircraft.

**2.** Section 2 of the Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2, 1988, chapter 66, section 2 and 1989, chapter 45, sections 2 and 5, is further amended by adding the following subsections:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète :

**1 (1)** La définition du terme «purchaser» figurant à l'article 1 de la loi intitulée *Gasoline Tax Act* («*Loi de la taxe sur l'essence*»), telle qu'elle est modifiée par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est abrogée et remplacée par ce qui suit :

(2) L'article 1 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 24 des Lois de l'Ontario de 1985, par l'article 1 du chapitre 66 des Lois de l'Ontario de 1988 et par les articles 1 et 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des alinéas suivants :

**2** L'article 2 de la Loi, tel qu'il est modifié par l'article 2 du chapitre 11 des Lois de l'Ontario de 1981, par l'article 2 du chapitre 24 des Lois de l'Ontario de 1985, par l'article 2 du chapitre 66 des Lois de l'Ontario de 1988 et par les articles 2 et 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des paragraphes suivants :



Tax on  
transfer of  
aviation fuel  
into aircraft

(2c) Every person shall pay to the Treasurer a tax at the rate specified in subsection (2) on all aviation fuel that is transferred by the person into the fuel tank of an aircraft in Ontario,

- (a) for use or consumption by the person;
- (b) for use or consumption by another person at the expense of the person who transferred the aviation fuel; or
- (c) on behalf of or as agent for a principal who is acquiring the aviation fuel for use or consumption by the principal or by others at the principal's expense.

Application  
of subs. (2c)

(2d) No tax is payable under subsection (2c) if,

- (a) the person who transfers the aviation fuel is a purchaser of the aviation fuel; or
- (b) the tax under subsection (2) has been paid by a purchaser of the aviation fuel.

Tax to be  
paid at  
prescribed  
time

(3a) Except where aviation fuel is imported into Canada and section 4 applies, a person liable to pay tax under subsection (2c) shall deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel referred to in subsection (2c) and shall remit the tax at the time and in the manner prescribed by the Minister.

Idem

(3b) A purchaser who does not purchase or receive delivery from a retailer but who is a purchaser by reason of receiving delivery within Ontario of gasoline, aviation fuel or propane in circumstances where section 4 does not apply and who is liable to pay tax under this Act shall deliver to the Minister or person authorized by the Minister a return with respect to the gasoline, aviation fuel or propane and shall remit the tax payable under this Act at the time and in the manner prescribed by the Minister.

**3. Clause 4 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 45, section 3, is repealed and the following substituted:**

**3 L'alinéa 4 (3) (b) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

- (b) an amount as a deposit equal to the tax that the importer subsequently would be liable to pay under section 2.

**4. Section 5 of the Act is amended by adding the following subsection:**

**4 L'article 5 de la Loi est modifié par adjonction du paragraphe suivant :**

Liability of  
person other  
than  
purchaser

(2) The liability of a person who is not a purchaser to pay tax under this Act continues until the person has paid the tax.

**5. Subsection 11 (5) of the Act is amended by striking out "retailer or purchaser" in the third line and substituting "retailer, pur-**

**5 Le paragraphe 11 (5) de la Loi est modifié par substitution, aux mots «retailer or purchaser» à la troisième ligne, des mots**

chaser or person liable to pay tax under subsection 2 (2c)".

6.—(1) Clause 16 (1) (c) of the Act is amended by inserting after "purchaser" in the first line, in the fourth line and in the eighth line in each instance "person liable to pay tax under subsection 2 (2c)".

(2) Subsection 16 (2) of the Act is amended by inserting after "purchaser" in the third and fourth lines and in the fifth line in each instance "person liable to pay tax under subsection 2 (2c)".

(3) Subsection 16 (3) of the Act is amended by inserting after "purchaser" in the fifth line "person liable to pay tax under subsection 2 (2c)".

(4) Subsection 16 (5) of the Act is amended by striking out "purchaser" in the tenth line and substituting "purchaser, person liable to pay tax under subsection 2 (2c)".

7.—(1) Clause 22 (b) of the Act is amended by inserting after "purchaser" in the fourth line "person liable to pay tax under subsection 2 (2c)".

(2) Clause 22 (c) of the Act is amended by inserting after "purchaser" in the fourth and fifth lines "person liable to pay tax under subsection 2 (2c)".

8.—(1) Clause 32 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3 and amended by 1989, chapter 45, section 5, is repealed and the following substituted:

- (b) prescribing the returns and statements to be made by importers, manufacturers, wholesalers, retailers and purchasers of gasoline, aviation fuel or propane and by persons liable to pay tax under subsection 2 (2c), the information to be given in such returns and statements and by whom and in what manner they shall be made, and prescribing the records to be kept by such persons.

(2) Subsection 32 (2) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3 and amended by 1985, chapter 24, section 10 and 1989, chapter 45, section 5, is further amended by adding the following clause:

- (d) prescribing anything that the Minister is permitted or required by this Act to prescribe.

9.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

«retailer, purchaser or person liable to pay tax under subsection 2 (2c)».

6 (1) L'alinéa 16 (1) (c) de la Loi est modifié par insertion, après le mot «purchaser» aux première, quatrième et huitième lignes, des mots «person liable to pay tax under subsection 2 (2c)».

(2) Le paragraphe 16 (2) de la Loi est modifié par insertion, après le mot «purchaser» aux troisième et quatrième lignes et à la cinquième ligne, des mots «person liable to pay tax under subsection 2 (2c)».

(3) Le paragraphe 16 (3) de la Loi est modifié par insertion, après le mot «purchaser» à la cinquième ligne, des mots «person liable to pay tax under subsection 2 (2c)».

(4) Le paragraphe 16 (5) de la Loi est modifié par substitution, au mot «purchaser» à la dixième ligne, des mots «purchaser, person liable to pay tax under subsection 2 (2c)».

7 (1) L'alinéa 22 (b) de la Loi est modifié par insertion, après le mot «purchaser» à la quatrième ligne, des mots «person liable to pay tax under subsection 2 (2c)».

(2) L'alinéa 22 (c) de la Loi est modifié par insertion, après le mot «purchaser» aux quatrième et cinquième lignes, des mots «person liable to pay tax under subsection 2 (2c)».

8 (1) L'alinéa 32 (2) (b) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981 et modifié par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 32 (2) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981 et modifié par l'article 10 du chapitre 24 des Lois de l'Ontario de 1985 et par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction de l'alinéa suivant :

9 (1) Sauf disposition contraire des paragraphes (2) et (3), la présente loi entre en

Entrée en vigueur

		vigueur le jour où elle reçoit la sanction royale.	
Idem	(2) Subsection 1 (2) and sections 2, 4, 5 and 8 shall be deemed to have come into force on the 1st day of October, 1986.	(2) Le paragraphe 1 (2) et les articles 2, 4, 5 et 8 sont réputés être entrés en vigueur le 1 <sup>er</sup> octobre 1986.	Idem
Idem	(3) Subsection 1 (1) and section 3 shall be deemed to have come into force in the 1st day of October, 1989.	(3) Le paragraphe 1 (1) et l'article 3 sont réputés être entrés en vigueur le 1 <sup>er</sup> octobre 1989.	Idem
Short title	<b>10.</b> The short title of this Act is the <i>Gasoline Tax Amendment Act (Aviation Fuel), 1991</i> .	<b>10</b> Le titre abrégé de la présente loi est <i>Loi de 1991 modifiant la Loi de la taxe sur l'essence (carburant aviation)</i> .	Titre abrégé







Bill 79

Projet de loi 79

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 79**

(Chapter 13  
Statutes of Ontario, 1991)

**An Act to amend the Gasoline Tax Act  
in respect of Liability for Tax on  
Transfers of Gasoline, Aviation Fuel  
or Propane**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

**Projet de loi 79**

(Chapitre 13  
Lois de l'Ontario de 1991)

**Loi portant modification de la Loi de la  
taxe sur l'essence concernant  
l'assujettissement à la taxe lors de  
transferts d'essence, de carburant  
aviation ou de propane**

**L'honorable S. Wark-Martyn**  
Ministre du Revenu



1st Reading      April 24th, 1991  
2nd Reading     June 19th, 1991  
3rd Reading     June 24th, 1991  
Royal Assent    June 27th, 1991

1<sup>re</sup> lecture        24 avril 1991  
2<sup>e</sup> lecture        19 juin 1991  
3<sup>e</sup> lecture        24 juin 1991  
sanction royale   27 juin 1991



**An Act to amend the Gasoline Tax Act  
in respect of Liability for Tax on  
Transfers of Gasoline, Aviation Fuel  
or Propane**

**Loi portant modification de la Loi de  
la taxe sur l'essence concernant  
l'assujettissement à la taxe lors de  
transferts d'essence, de carburant  
aviation ou de propane**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) Clause 1 (h) of the *Gasoline Tax Act*, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, is repealed and the following substituted:

- (h) “purchaser” means a person who, within Ontario, purchases or receives delivery of gasoline, aviation fuel or propane for the person’s own use or consumption or for use or consumption by others at the person’s expense, or on behalf of or as agent for a principal who is acquiring the gasoline, aviation fuel or propane for use or consumption by the principal or by others at the principal’s expense.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1, 1988, chapter 66, section 1 and 1989, chapter 45, sections 1 and 5, is further amended by adding the following clauses:

- (ca) “delivery” includes the physical transfer in Ontario of gasoline, aviation fuel or propane into the fuel tank of a motor vehicle or aircraft;
- (cb) “fuel tank” means the receptacle that supplies the engine or turbine in a motor vehicle or aircraft.

**2.** Section 2 of the Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2, 1988, chapter 66, section 2 and 1989, chapter 45, sections 2 and 5, is further amended by adding the following subsections:

Tax on  
transfer of  
aviation fuel  
into aircraft

- (2c) Every person shall pay to the Treasurer a tax at the rate specified in subsection (2) on all aviation fuel that is transferred by the person into the fuel tank of an aircraft in Ontario,

- (a) for use or consumption by the person;

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète :

**1** (1) La définition du terme «purchaser» figurant à l’article 1 de la loi intitulée *Gasoline Tax Act* («*Loi de la taxe sur l’essence*»), telle qu’elle est modifiée par l’article 5 du chapitre 45 des Lois de l’Ontario de 1989, est abrogée et remplacée par ce qui suit :

(2) L’article 1 de la Loi, tel qu’il est modifié par l’article 1 du chapitre 24 des Lois de l’Ontario de 1985, par l’article 1 du chapitre 66 des Lois de l’Ontario de 1988 et par les articles 1 et 5 du chapitre 45 des Lois de l’Ontario de 1989, est modifié en outre par adjonction des alinéas suivants :

**2** L’article 2 de la Loi, tel qu’il est modifié par l’article 2 du chapitre 11 des Lois de l’Ontario de 1981, par l’article 2 du chapitre 24 des Lois de l’Ontario de 1985, par l’article 2 du chapitre 66 des Lois de l’Ontario de 1988 et par les articles 2 et 5 du chapitre 45 des Lois de l’Ontario de 1989, est modifié en outre par adjonction des paragraphes suivants :



- (b) for use or consumption by another person at the expense of the person who transferred the aviation fuel; or
- (c) on behalf of or as agent for a principal who is acquiring the aviation fuel for use or consumption by the principal or by others at the principal's expense.

Application  
of subs. (2c)

(2d) No tax is payable under subsection (2c) if,

- (a) the person who transfers the aviation fuel is a purchaser of the aviation fuel; or
- (b) the tax under subsection (2) has been paid by a purchaser of the aviation fuel.

Tax to be  
paid at  
prescribed  
time

(3a) Except where aviation fuel is imported into Canada and section 4 applies, a person liable to pay tax under subsection (2c) shall deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel referred to in subsection (2c) and shall remit the tax at the time and in the manner prescribed by the Minister.

Idem

(3b) A purchaser who does not purchase or receive delivery from a retailer but who is a purchaser by reason of receiving delivery within Ontario of gasoline, aviation fuel or propane in circumstances where section 4 does not apply and who is liable to pay tax under this Act shall deliver to the Minister or person authorized by the Minister a return with respect to the gasoline, aviation fuel or propane and shall remit the tax payable under this Act at the time and in the manner prescribed by the Minister.

**3. Clause 4 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 45, section 3, is repealed and the following substituted:**

**3 L'alinéa 4 (3) (b) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

- (b) an amount as a deposit equal to the tax that the importer subsequently would be liable to pay under section 2.

**4. Section 5 of the Act is amended by adding the following subsection:**

**4 L'article 5 de la Loi est modifié par adjonction du paragraphe suivant :**

Liability of  
person other  
than  
purchaser

- (2) The liability of a person who is not a purchaser to pay tax under this Act continues until the person has paid the tax.

**5. Subsection 11 (5) of the Act is amended by striking out "retailer or purchaser" in the third line and substituting "retailer, purchaser or person liable to pay tax under subsection 2 (2c)".**

**5 Le paragraphe 11 (5) de la Loi est modifié par substitution, aux mots «retailer or purchaser» à la troisième ligne, des mots «retailer, purchaser or person liable to pay tax under subsection 2 (2c)».**

**6.—(1) Clause 16 (1) (c) of the Act is amended by inserting after "purchaser" in the first line, in the fourth line and in the eighth line in each instance "person liable to pay tax under subsection 2 (2c)".**

**6 (1) L'alinéa 16 (1) (c) de la Loi est modifié par insertion, après le mot «purchaser» aux première, quatrième et huitième lignes, des mots «person liable to pay tax under subsection 2 (2c)».**

**(2) Subsection 16 (2) of the Act is amended by inserting after "purchaser" in the third and fourth lines and in the fifth line in each instance "person liable to pay tax under subsection 2 (2c)".**

**(2) Le paragraphe 16 (2) de la Loi est modifié par insertion, après le mot «purchaser» aux troisième et quatrième lignes et à la cinquième ligne, des mots «person liable to pay tax under subsection 2 (2c)».**

**(3) Subsection 16 (3) of the Act is amended by inserting after "purchaser" in the fifth line "person liable to pay tax under subsection 2 (2c)".**

**(3) Le paragraphe 16 (3) de la Loi est modifié par insertion, après le mot «purchaser» à la cinquième ligne, des mots «person liable to pay tax under subsection 2 (2c)».**

(4) Subsection 16 (5) of the Act is amended by striking out “purchaser” in the tenth line and substituting “purchaser, person liable to pay tax under subsection 2 (2c)”.

7.—(1) Clause 22 (b) of the Act is amended by inserting after “purchaser” in the fourth line “person liable to pay tax under subsection 2 (2c)”.

(2) Clause 22 (c) of the Act is amended by inserting after “purchaser” in the fourth and fifth lines “person liable to pay tax under subsection 2 (2c)”.

8.—(1) Clause 32 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3 and amended by 1989, chapter 45, section 5, is repealed and the following substituted:

- (b) prescribing the returns and statements to be made by importers, manufacturers, wholesalers, retailers and purchasers of gasoline, aviation fuel or propane and by persons liable to pay tax under subsection 2 (2c), the information to be given in such returns and statements and by whom and in what manner they shall be made, and prescribing the records to be kept by such persons.

(2) Subsection 32 (2) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3 and amended by 1985, chapter 24, section 10 and 1989, chapter 45, section 5, is further amended by adding the following clause:

- (d) prescribing anything that the Minister is permitted or required by this Act to prescribe.

9.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) Subsection 1 (2) and sections 2, 4, 5 and 8 shall be deemed to have come into force on the 1st day of October, 1986.

(3) Subsection 1 (1) and section 3 shall be deemed to have come into force in the 1st day of October, 1989.

10. The short title of this Act is the *Gasoline Tax Amendment Act (Aviation Fuel), 1991*.

(4) Le paragraphe 16 (5) de la Loi est modifié par substitution, au mot «purchaser» à la dixième ligne, des mots «purchaser, person liable to pay tax under subsection 2 (2c)».

7 (1) L'alinéa 22 (b) de la Loi est modifié par insertion, après le mot «purchaser» à la quatrième ligne, des mots «person liable to pay tax under subsection 2 (2c)».

(2) L'alinéa 22 (c) de la Loi est modifié par insertion, après le mot «purchaser» aux quatrième et cinquième lignes, des mots «person liable to pay tax under subsection 2 (2c)».

8 (1) L'alinéa 32 (2) (b) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981 et modifié par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 32 (2) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981 et modifié par l'article 10 du chapitre 24 des Lois de l'Ontario de 1985 et par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction de l'alinéa suivant :

9 (1) Sauf disposition contraire des paragraphes (2) et (3), la présente loi entre en vigueur le jour où elle reçoit la sanction royale.

(2) Le paragraphe 1 (2) et les articles 2, 4, 5 et 8 sont réputés être entrés en vigueur le 1<sup>er</sup> octobre 1986.

(3) Le paragraphe 1 (1) et l'article 3 sont réputés être entrés en vigueur le 1<sup>er</sup> octobre 1989.

10 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur l'essence (carburant aviation)*.

Commence-  
ment

Idem

Idem

Short title

Entrée en  
vigueur

Idem

Idem

Titre abrégé









Bill 80	Private Member's Bill	Projet de loi 80	de député
1st SESSION, 35TH LEGISLATURE, ONTARIO 40 ELIZABETH II, 1991		1 <sup>re</sup> SESSION, 35 <sup>e</sup> LÉGISLATURE, ONTARIO 40 ELIZABETH II, 1991	
<b>Bill 80</b>		<b>Projet de loi 80</b>	
<b>An Act respecting Government Expenditures</b>		<b>Loi concernant les dépenses publiques</b>	
<b>Mr. Stockwell</b>		<b>M. Stockwell</b>	
1st Reading      April 29th, 1991 2nd Reading 3rd Reading Royal Assent		1 <sup>re</sup> lecture      29 avril 1991 2 <sup>e</sup> lecture 3 <sup>e</sup> lecture sanction royale	



#### EXPLANATORY NOTE

The Bill would require that if the Province received greater revenues than were forecast in the Budget, the excess would have to be paid into a Budget Stabilization Fund; payments could be made out of the Fund only to reduce the deficit or the provincial debt. The Government would be prohibited from increasing 1991-1992 fiscal year expenditures, other than transfer payments, above the amount of those expenditures in the 1990-1991 fiscal year.

The Bill would also establish a Government Expenditure Review Committee, composed of representatives of the three major political parties and members of the public and private sectors. The Committee would set out recommendations for the elimination of unproductive or redundant Government expenditures in a report to be submitted to the Legislative Assembly. Pending submission of the Committee's report, the Government would be prohibited from establishing any new programs unless an existing program was eliminated.

#### NOTE EXPLICATIVE

Le projet de loi exige que l'excédent des recettes de la province, si celles-ci sont supérieures aux prévisions budgétaires, soit versé à un fonds de stabilisation budgétaire. Des sommes ne pourraient être prélevées sur ce fonds que pour réduire le déficit ou la dette de la province. Le gouvernement n'aurait pas le droit d'augmenter le montant des dépenses pour l'exercice 1991-1992, autres que les paiements de transfert, par rapport à celui de l'exercice 1990-1991.

En outre, le projet de loi crée un comité d'examen des dépenses publiques, formé de députés des trois grands partis politiques et de représentants des secteurs public et privé. Le comité, dans un rapport qu'il présenterait à l'Assemblée législative, ferait des recommandations pour l'élimination des dépenses publiques qui sont improductives ou superflues. Tant que le comité n'aurait pas remis son rapport, le gouvernement n'aurait pas le droit de créer de nouveaux programmes, à moins qu'un programme existant ne soit éliminé.

## An Act respecting Government Expenditures

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) A fund to be known as the Budget Stabilization Fund is established.

(2) If in any fiscal year the revenues of the Government of Ontario exceed the amount forecast for that year in the Budget laid before the Legislative Assembly, an amount equal to the excess shall be paid into the Budget Stabilization Fund.

(3) No payment shall be made out of the Budget Stabilization Fund except to reduce the provincial deficit or debt.

**2.** During the fiscal year ending the 31st day of March, 1992, the expenditures of the Government, exclusive of transfer payments, shall not exceed the amount of its expenditures, exclusive of transfer payments, in the fiscal year ended the 31st day of March, 1991.

**3.**—(1) A committee to be known as the Government Expenditure Review Committee is established.

(2) The Committee shall be composed of,

- (a) three members of the Legislative Assembly from the party from which the Government is chosen, appointed by the Chief Government Whip;
- (b) two members of the Legislative Assembly from the party recognized as the Official Opposition, appointed by the Chief Opposition Whip;
- (c) one member of the Legislative Assembly from each party, other than a party mentioned in clause (a) or (b), having at least twelve members in the Assembly, appointed by the Chief Party Whip of the party;
- (d) five other persons, at least three of whom are not members of the public service of Ontario, appointed by the Lieutenant Governor in Council.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Est créé un fonds appelé Fonds de stabilisation budgétaire.

(2) Si, au cours d'un exercice, les recettes du gouvernement de l'Ontario dépassent les recettes prévues pour cet exercice dans le budget déposé devant l'Assemblée législative, une somme égale à l'excédent est versée au Fonds de stabilisation budgétaire.

(3) Des sommes ne doivent être prélevées sur le Fonds de stabilisation budgétaire que pour réduire le déficit ou la dette de la province.

**2** Au cours de l'exercice se terminant le 31 mars 1992, le montant des dépenses publiques de la province, à l'exclusion des paiements de transfert, ne doit pas dépasser le montant des dépenses que celle-ci a engagées, à l'exclusion des paiements de transfert, au cours de l'exercice qui s'est terminé le 31 mars 1991.

**3** (1) Est créé un comité appelé Comité d'examen des dépenses publiques.

(2) Le Comité se compose des membres suivants :

- a) trois députés du parti formant le gouvernement, nommés par le whip en chef du gouvernement;
- b) deux députés du parti formant l'opposition officielle, nommés par le whip en chef de l'opposition;
- c) un député de chaque parti, autre qu'un parti mentionné à l'alinéa a) ou b), qui compte au moins douze députés à l'Assemblée, nommé par le whip en chef du parti;
- d) cinq autres personnes, dont au moins trois ne font pas partie de la fonction publique de l'Ontario, nommées par le lieutenant-gouverneur en conseil.

Budget  
Stabilization  
Fund

Payments  
into Fund

Payments  
out of Fund

Government  
expenditures  
frozen

Government  
Expenditure  
Review  
Committee

Composition

Fonds de sta-  
bilisation  
budgétaire

Versements  
au Fonds

Prélèvements  
sur le Fonds

Gel des  
dépenses  
publiques

Comité d'exa-  
men des  
dépenses  
publiques

Composition



Appoint- ments	(3) The appointments under subsection (2) shall be made not later than three months after the day on which this Act comes into force and, in the event that any appointment is not made within that time, the Committee members who have been appointed shall make the appointment.	(3) Les nominations visées au paragraphe (2) sont faites au plus tard trois mois après le jour de l'entrée en vigueur de la présente loi. Les membres du Comité qui ont été nommés font les nominations qui ne sont pas faites dans ce délai.	Nominations
Member unable to serve	(4) If any member of the Committee becomes unable to continue to serve on the Committee, the remaining members may appoint a substitute in his or her place.	(4) En cas d'empêchement d'un membre du Comité, les autres membres peuvent nommer un remplaçant.	Empêchement d'un membre
Chair	(5) The members of the Committee shall appoint a chair from among themselves.	(5) Les membres du Comité nomment l'un d'entre eux à la présidence.	Présidence
Idem	(6) If the chair becomes unable to continue to serve as chair, the remaining Committee members may appoint a substitute in his or her place.	(6) En cas d'empêchement du président, les autres membres du Comité peuvent nommer un remplaçant.	Idem
Duties of Committee	4.—(1) The Committee shall prepare a report setting out recommendations for the elimination of unproductive or redundant Government expenditures.	4 (1) Le Comité rédige un rapport dans lequel il fait des recommandations pour l'élimination des dépenses publiques qui sont improductives ou superflues.	Fonctions du Comité
Report to be submitted	(2) The Committee shall submit its report to the Legislative Assembly within one year of the day on which this Act comes into force.	(2) Le Comité présente son rapport à l'Assemblée législative dans l'année qui suit le jour de l'entrée en vigueur de la présente loi.	Présentation du rapport
Idem	(3) The Lieutenant Governor in Council may extend the period mentioned in subsection (2).	(3) Le lieutenant-gouverneur en conseil peut proroger le délai mentionné au paragraphe (2).	Idem
Government programs	5.—(1) The Government shall not establish any new programs before the Government Expenditure Review Committee submits its report to the Legislative Assembly.	5 (1) Le gouvernement ne doit pas créer de nouveaux programmes avant que le Comité d'examen des dépenses publiques ne présente son rapport à l'Assemblée législative.	Programmes gouvernementaux
Exception	(2) Despite subsection (1); the Government may introduce a new program if it eliminates an existing program.	(2) Malgré le paragraphe (1), le gouvernement peut lancer un nouveau programme si celui-ci élimine un programme existant.	Exception
Commence- ment	6. This Act comes into force on the day it receives Royal Assent.	6 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.	Entrée en vigueur
Short title	7. The short title of this Act is the <i>Government Spending Control Act, 1991</i> .	7 Le titre abrégé de la présente loi est <i>Loi de 1991 sur le contrôle des dépenses publiques</i> .	Titre abrégé

Bill 81

Government Bill

Projet de loi 81

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 81

**An Act to authorize borrowing on the  
credit of the Consolidated Revenue  
Fund**

**The Hon. F. Laughren**

Treasurer of Ontario and Minister of Economics

## Projet de loi 81

**Loi autorisant des emprunts garantis  
par le Trésor**

**L'honorable F. Laughren**

Trésorier de l'Ontario et ministre de l'Économie

1st Reading April 29th, 1991

2nd Reading

3rd Reading

Royal Assent

1<sup>re</sup> lecture 29 avril 1991

2<sup>e</sup> lecture

3<sup>e</sup> lecture

sanction royale



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#### EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing money, up to a total aggregate amount of \$12,000,000,000, for the Consolidated Revenue Fund. It is expected that the public capital market and the Canada Pension Plan will be the principal sources of funds. Any unused borrowing authority will expire on December 31st, 1992.

#### NOTE EXPLICATIVE

L'objet du présent projet de loi est d'autoriser des emprunts pour le Trésor, jusqu'à concurrence de 12 000 000 000 \$, qui seraient principalement financés par le marché financier et le Régime de pensions du Canada. L'autorisation d'emprunter expirera le 31 décembre 1992.

**An Act to authorize borrowing on the  
credit of the Consolidated Revenue  
Fund**

**Loi autorisant des emprunts garantis  
par le Trésor**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Borrowing  
authorized

**1.**—(1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$12,000,000,000, as are considered necessary to discharge any indebtedness or obligation of Ontario, to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund or to reimburse the Consolidated Revenue Fund for money expended for any of such purposes.

**1** (1) Le lieutenant-gouverneur en conseil peut, conformément à la *Loi sur l'administration financière* et pour un montant total ne dépassant pas 12 000 000 000 \$, contracter les emprunts jugés nécessaires afin d'acquitter une dette ou un engagement de l'Ontario, d'effectuer un paiement prélevé sur le Trésor qui est autorisé ou requis par une loi ou de rembourser le Trésor des sommes d'argent utilisées à ces fins.

Autorisation  
d'emprunter

Other Acts

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

(2) L'autorisation d'emprunter que confère la présente loi s'ajoute aux autorisations conférées par d'autres lois.

Autres lois

Expiry

**2.** No order in council authorizing borrowing under this Act shall be made after the 31st day of December, 1992.

**2** Nul décret autorisant un emprunt en vertu de la présente loi n'est pris après le 31 décembre 1992.

Cessation  
d'effet

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

**3** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**4.** The short title of this Act is the *Ontario Loan Act, 1991*.

**4** Le titre abrégé de la présente loi est *Loi de 1991 sur les emprunts de l'Ontario*.

Titre abrégé





Bill 81

Projet de loi 81

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 81**

*(Chapter 8  
Statutes of Ontario, 1991)*

**An Act to authorize borrowing on the  
credit of the Consolidated Revenue  
Fund**

**The Hon. F. Laughren**  
Treasurer of Ontario and Minister of Economics

1st Reading	April 29th, 1991
2nd Reading	June 11th, 1991
3rd Reading	June 19th, 1991
Royal Assent	June 19th, 1991

**Projet de loi 81**

*(Chapitre 8  
Lois de l'Ontario de 1991)*

**Loi autorisant des emprunts garantis  
par le Trésor**

**L'honorable F. Laughren**  
Trésorier de l'Ontario et ministre de l'Économie



1 <sup>re</sup> lecture	29 avril 1991
2 <sup>e</sup> lecture	11 juin 1991
3 <sup>e</sup> lecture	19 juin 1991
sanction royale	19 juin 1991



**An Act to authorize borrowing on the  
credit of the Consolidated Revenue  
Fund**

**Loi autorisant des emprunts garantis  
par le Trésor**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Borrowing  
authorized

**1.**—(1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$12,000,000,000, as are considered necessary to discharge any indebtedness or obligation of Ontario, to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund or to reimburse the Consolidated Revenue Fund for money expended for any of such purposes.

**1** (1) Le lieutenant-gouverneur en conseil peut, conformément à la *Loi sur l'administration financière* et pour un montant total ne dépassant pas 12 000 000 000 \$, contracter les emprunts jugés nécessaires afin d'acquitter une dette ou un engagement de l'Ontario, d'effectuer un paiement prélevé sur le Trésor qui est autorisé ou requis par une loi ou de rembourser le Trésor des sommes d'argent utilisées à ces fins.

Autorisation  
d'emprunter

Other Acts

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

(2) L'autorisation d'emprunter que confère la présente loi s'ajoute aux autorisations conférées par d'autres lois.

Autres lois

Expiry

**2.** No order in council authorizing borrowing under this Act shall be made after the 31st day of December, 1992.

**2** Nul décret autorisant un emprunt en vertu de la présente loi n'est pris après le 31 décembre 1992.

Cessation  
d'effet

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

**3** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**4.** The short title of this Act is the *Ontario Loan Act, 1991*.

**4** Le titre abrégé de la présente loi est *Loi de 1991 sur les emprunts de l'Ontario*.

Titre abrégé





CA2 on  
K5

Bill 82

Government Bill

Projet de loi 82

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 82

### An Act to establish the Treasury Board

**The Hon. F. Laughren**

Treasurer of Ontario and Minister of Economics

## Projet de loi 82

### Loi créant le Conseil du Trésor

**L'honorable F. Laughren**

Trésorier de l'Ontario et ministre de l'Économie



1st Reading      April 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture      29 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The Bill establishes a committee of Cabinet to be known as the Treasury Board. The Treasury Board will assume the financial management functions of the Government of Ontario which currently fall under the jurisdiction of the Management Board of Cabinet.

#### NOTE EXPLICATIVE

Le projet de loi crée un comité du Conseil des ministres appelé Conseil du Trésor qui assumera les fonctions de gestion financière du gouvernement de l'Ontario, lesquelles incombent actuellement au Conseil de gestion du gouvernement.

## An Act to establish the Treasury Board

## Loi créant le Conseil du Trésor

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1. Definitions
2. Treasury Board established
3. Members and quorum
4. Chair and vice-chair
5. Procedure
6. Powers and duties
7. Special warrants
8. Board orders
9. Expenditure transfer
10. Regulations
11. Repeals
12. Commencement
13. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

**1.**—(1) In this Act,

“appropriation” includes the amount shown for a vote or item in the estimates or supplementary estimates presented to the Assembly; (“affectation de crédits”)

“ministry” means a ministry of the Government of Ontario and includes,

- (a) a board, commission, authority, corporation without share capital, Crown agency or other body the majority of the members of any of which are appointed by the Crown, and
- (b) a corporation with share capital in which the majority of shares entitled to vote are held by or for the Crown. (“ministère”)

Idem

(2) A word or expression that is not defined in subsection (1) and that is defined in section 1 of the *Financial Administration Act* has the same meaning in this Act as in the *Financial Administration Act*.

Treasury Board established

**2.** A committee of the Executive Council to be known in English as the Treasury Board and in French as Conseil du Trésor is hereby established.

### SOMMAIRE

1. Définitions
2. Création du Conseil du Trésor
3. Composition et quorum
4. Président et vice-président
5. Procédure
6. Pouvoirs et fonctions
7. Mandats spéciaux
8. Arrêtés du Conseil
9. Transfert de budget
10. Règlements
11. Abrogations
12. Entrée en vigueur
13. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Les définitions qui suivent s'appliquent à la présente loi. Définitions

«affectation de crédits» S'entend en outre du montant d'un crédit ou d'un poste qui est indiqué dans le budget des dépenses ou le budget des dépenses supplémentaire présenté à l'Assemblée. («appropriation»)

«ministère» S'entend d'un ministère du gouvernement de l'Ontario et s'entend en outre :

- a) d'une régie, d'un conseil, d'une commission, d'un office, d'une personne morale sans capital-actions, d'un organisme de la Couronne et de tout autre organisme dont la majorité des membres sont nommés par la Couronne;
- b) d'une personne morale avec capital-actions dont la majorité des actions assorties du droit de vote sont détenues par la Couronne ou pour son compte. («ministry»)

(2) Les termes qui ne sont pas définis au paragraphe (1), mais qui sont définis à l'article 1 de la loi intitulée *Financial Administration Act* («Loi sur l'administration financière»), ont le même sens dans la présente loi que dans cette dernière loi. Idem

**2** Est créé un comité du Conseil exécutif appelé Conseil du Trésor en français et Treasury Board en anglais. Création du Conseil du Trésor



Members	<b>3.—(1)</b> The members of the Board are the Treasurer of Ontario and Minister of Economics, the Chair of the Management Board of Cabinet and not fewer than four or more than eight other members appointed by the Lieutenant Governor in Council from among the members of the Executive Council.	<b>3</b> (1) Le Conseil se compose du trésorier de l'Ontario et ministre de l'Économie, du président du Conseil de gestion du gouvernement et de quatre à huit autres membres du Conseil exécutif nommés par le lieutenant-gouverneur en conseil.	Composition
Alternate members	<b>(2)</b> The Lieutenant Governor in Council may appoint from among the members of the Executive Council alternate members of the Board to act in the absence of Board members other than the Treasurer or the Chair of the Management Board of Cabinet.	<b>(2)</b> Le lieutenant-gouverneur en conseil peut nommer d'autres membres du Conseil exécutif pour siéger à titre de membres suppléants du Conseil en cas d'absence des membres du Conseil autres que le trésorier ou le président du Conseil de gestion du gouvernement.	Membres suppléants
Quorum	<b>(3)</b> Three members constitute a quorum of the Board.	<b>(3)</b> Trois membres du Conseil constituent le quorum.	Quorum
Chair and vice-chair	<b>4.—(1)</b> The Lieutenant Governor in Council may designate the chair and vice-chair of the Board.	<b>4</b> (1) Le lieutenant-gouverneur en conseil peut désigner le président et le vice-président du Conseil.	Président et vice-président
Chair's duties	<b>(2)</b> The chair shall preside at Board meetings, is responsible for its operation and administration and, between its meetings, shall exercise or perform such of its powers, duties and functions as the Board may authorize.	<b>(2)</b> Le président préside les réunions du Conseil et assure son fonctionnement et son administration. Entre les réunions, il exerce les pouvoirs et les fonctions que le Conseil l'autorise à exercer.	Fonctions du président
Absence of chair or vice-chair	<b>(3)</b> When the chair is absent from a meeting of the Board, the vice-chair shall preside, and when both are absent, the members present at the meeting shall elect a chair for the meeting.	<b>(3)</b> Si le président est absent d'une réunion du Conseil, le vice-président assume la présidence. Si les deux sont absents, les membres présents élisent l'un des leurs pour la présider.	Absence du président ou du vice-président
Procedure	<b>5.—(1)</b> The Board may determine its rules and methods of procedure and shall keep records of its decisions and proceedings.	<b>5</b> (1) Le Conseil peut établir ses règles de procédure et tient des dossiers de ses décisions et de ses délibérations.	Procédure
Operation of board	<b>(2)</b> Subject to the direction of the chair of the Board, the Deputy Treasurer of Ontario and Deputy Minister of Economics, or such other officer of the public service as is designated by order of the Lieutenant Governor in Council, is responsible for the operation of the Board in accordance with its policies and procedures.	<b>(2)</b> Sous réserve des directives du président du Conseil, le trésorier adjoint de l'Ontario et sous-ministre de l'Économie, ou tout autre fonctionnaire que désigne par décret le lieutenant-gouverneur en conseil, assure le fonctionnement du Conseil conformément à ses politiques et à ses procédures.	Fonctionnement du Conseil
Board staff	<b>(3)</b> The Ministry of Treasury and Economics shall provide the staff required for the operation and administration of the Board.	<b>(3)</b> Le ministère du Trésor et de l'Économie fournit le personnel nécessaire au fonctionnement et à l'administration du Conseil.	Personnel
Delegation	<b>(4)</b> The Board may delegate in writing to members of the Board or to persons employed in the Ministry of Treasury and Economics any power, duty or function of the Board, subject to such limitations and requirements as may be set out in the delegation.	<b>(4)</b> Le Conseil peut déléguer par écrit à des membres du Conseil, ou à des personnes employées par le ministère du Trésor et de l'Économie les pouvoirs ou les fonctions du Conseil, sous réserve des restrictions et des conditions énoncées dans la délégation.	Délégation
Powers and duties	<b>6.—(1)</b> The powers and duties of the Board are,  (a) to assess the adequacy of plans for the implementation of programs approved or provided for by the Legislature;  (b) to direct the preparation and review of forecasts, estimates and analyses of	<b>6</b> (1) Les pouvoirs et les fonctions du Conseil sont les suivants :  a) évaluer les plans de mise en oeuvre des programmes approuvés ou prévus par la Législature pour voir s'ils sont adéquats;  b) diriger la préparation et l'examen des prévisions et analyses des dépenses et	Pouvoirs et fonctions

short term and long term expenditures and expenditure commitments and other data pertaining to authorized or proposed programs of any ministry;

(c) to direct, and establish policies for, the preparation, form and content of estimates and supplementary estimates submitted to the Legislature for any ministry;

(d) to determine fees or charges for the provision of services by any ministry or for the use of the facilities of a ministry and to require the ministry to take such action as is necessary to implement the determination;

(e) to review and evaluate new and existing programs of any ministry and determine priorities with respect thereto;

(f) to control expenditures of public money within the amounts appropriated or otherwise provided by the Legislature; and

(g) to carry out or perform any directions or responsibilities given to the Board by the Executive Council.

Direction by  
Executive  
Council

(2) The Board is subject to the direction of the Executive Council, which may amend or revoke any action of the Board.

Directives

(3) The Board may issue such financial and administrative directives as it considers necessary in the performance of its duties.

Production  
of docu-  
ments

(4) A ministry shall give the Board access to, and copies of, any account, return, statement, document, report or information in the possession or control of the ministry when the Board requires the account, statement, document, report or information for the performance of its duties.

Special  
warrants

7.—(1) When the Legislature is not in session and a matter arises that requires the expenditure of money for which there is no appropriation by the Legislature, the Lieutenant Governor in Council, upon the report of the Board estimating the amount required for the expenditure, may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the payment of the amount estimated to be required for the expenditure, and the amount shall be paid from the Consolidated Revenue Fund as specified in the special warrant.

Warrant an  
appropriation

(2) Subject to subsection (3), a special warrant is an appropriation for the fiscal year in which it is issued.

Idem

(3) A special warrant issued in March of one fiscal year may provide that it applies

engagements de dépenses à court et à long terme et des autres données concernant les programmes autorisés ou projetés des ministères;

c) diriger la préparation, la forme et le contenu des budgets des dépenses et des budgets des dépenses supplémentaires des ministères qui sont présentés à la Législature et établir des politiques à cet égard;

d) fixer le prix de prestation de services par les ministères ou d'utilisation de leurs installations et exiger de ceux-ci qu'ils prennent les mesures nécessaires pour exécuter la décision;

e) revoir et évaluer les nouveaux programmes et les programmes existants des ministères et établir les priorités à cet égard;

f) veiller à ce que les dépenses de deniers publics n'excèdent pas les sommes prévues par la Législature, notamment les affectations de crédits;

g) appliquer les directives ou s'acquitter des responsabilités données au Conseil par le Conseil exécutif.

(2) Le Conseil est assujéti aux directives du Conseil exécutif, qui peut modifier ou révoquer les mesures prises par le Conseil..

Directives du  
Conseil exé-  
cutif

(3) Le Conseil peut, dans l'exercice de ses fonctions, donner les directives financières et administratives qu'il juge nécessaires.

Directives du  
Conseil

(4) Lorsque le Conseil l'exige pour l'exercice de ses fonctions, les ministères lui donnent accès aux comptes, relevés, états, déclarations, rapports ou autres documents ainsi qu'aux renseignements qui se trouvent en leur possession ou dont ils ont le contrôle et lui en remettent des copies.

Production de  
documents

7 (1) Lorsque la Législature ne siège pas et qu'il survient un événement qui exige une dépense pour laquelle la Législature n'a prévu aucune affectation de crédits, le lieutenant-gouverneur en conseil, sur présentation d'un rapport du Conseil contenant son évaluation du montant exigé, peut faire établir un mandat spécial que signe le lieutenant-gouverneur et qui autorise le paiement du montant. Celui-ci est prélevé sur le Trésor comme le précise le mandat spécial.

Mandats  
spéciaux

(2) Sous réserve du paragraphe (3), le mandat spécial constitue une affectation de crédits pour l'exercice au cours duquel il est établi.

Le mandat  
constitue une  
affectation de  
crédits

(3) Le mandat spécial qui est établi au mois de mars pendant un exercice peut pré-

Idem



with respect to the next fiscal year and it is an appropriation in that next fiscal year.

Board orders

**8.—(1)** The Board may by order authorize payments to supplement the amount of any appropriation when the amount provided in the appropriation is insufficient to carry out the purpose for which the appropriation was made.

Idem

(2) An order under subsection (1) shall provide that the amount of the payments be offset by limiting the expenditures to be made under any appropriation for the same fiscal year that is not exhausted or that, in the opinion of the Board, is unlikely to be fully spent in the fiscal year.

Report required

(3) An order may be made under subsection (1) only if the Board has received from the ministry responsible for the program to which the proposed supplementary appropriation relates, or from a person or officer prescribed by the regulations made under this Act, a report in writing setting out the necessity for further payments and the reason why the appropriation, unless supplemented, is insufficient.

Timing

(4) An order under subsection (1) may be made at any time before the 1st day of May following the end of the fiscal year for which the appropriation that is supplemented was made.

Expenditure transfer

**9.—(1)** When powers and duties are assigned and transferred from one minister of the Crown to another, the Board may transfer to the ministry administered by the minister to whom the powers and duties are assigned and transferred the appropriate sums in the votes and items of the estimates and supplementary estimates for the expenditures in the fiscal year for the exercise and performance of those powers and duties.

Certificate of Board

(2) The Board shall issue to the ministry of the minister to whom powers and duties are assigned and transferred a certificate stating the amount of the sums transferred under subsection (1) and such other information as the Board considers necessary.

Expenditures authorized

(3) A certificate is effective from the date stated in it and transfers to the ministry to which it is issued the authority for the portion of the fiscal year beginning with that date to make the expenditure of the sums transferred.

Regulations

**10.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) respecting the accounting for, and the collection, management and administration of, public money;

voir qu'il s'applique à l'exercice suivant et qu'il s'agit d'une affectation de crédits pour cet exercice suivant.

Arrêtés du Conseil

**8** (1) Le Conseil peut, par arrêté, autoriser des paiements qui viennent s'ajouter au montant d'une affectation de crédits lorsque celle-ci est insuffisante pour réaliser son objet.

Idem

(2) L'arrêté prévu au paragraphe (1) prévoit que le montant des paiements sera compensé en limitant les dépenses prévues pour le même exercice au titre d'une affectation de crédits qui n'est pas encore épuisée ou qui, de l'avis du Conseil, ne le sera vraisemblablement pas au cours de l'exercice.

Rapport

(3) Un arrêté ne peut être rendu aux termes du paragraphe (1) que si le Conseil reçoit du ministre responsable du programme visé par l'affectation de crédits supplémentaire demandée, ou d'une personne ou d'un fonctionnaire prescrit par les règlements pris en application de la présente loi, un rapport écrit concluant à la nécessité de paiements supplémentaires et expliquant l'insuffisance de l'affectation de crédits actuelle.

Prise de l'arrêté

(4) L'arrêté prévu au paragraphe (1) peut être pris à tout moment avant le 1<sup>er</sup> mai suivant la fin de l'exercice pour lequel l'affectation de crédits qui a été majorée a été prévue.

Transfert de budget

**9** (1) Lorsque des pouvoirs et des fonctions sont attribués puis transférés d'un ministre de la Couronne à un autre, le Conseil peut transférer au ministère relevant du ministre auquel sont attribués et transférés les pouvoirs et fonctions les sommes appropriées prévues dans les crédits et les postes du budget des dépenses et du budget des dépenses supplémentaires, pour couvrir les dépenses de l'exercice afin de lui permettre d'exercer ces pouvoirs et fonctions.

Certificat du Conseil

(2) Le Conseil délivre au ministère du ministre auquel sont attribués et transférés les pouvoirs et fonctions un certificat énonçant le montant des sommes transférées en vertu du paragraphe (1) et les autres renseignements que le Conseil estime nécessaires.

Dépenses autorisées

(3) Le certificat est en vigueur à compter de la date qui y est indiquée et transfère au ministère auquel il est délivré, pour la partie de l'exercice qui commence à cette date-là, le pouvoir de dépenser les sommes transférées.

Règlements

**10** Sous réserve de l'approbation du lieutenant-gouverneur en conseil, le Conseil peut, par règlement :

- a) prévoir la comptabilisation, la perception, la gestion et l'administration des deniers publics;

- (b) respecting the retention and disposal of records concerning the receipt or disbursement of public money;
- (c) providing that a board, commission, authority, corporation, Crown agency or other body does not fall within the definition of "ministry" set out in section 1;
- (d) designating the Speaker of the Assembly, the chair of the Board of Internal Economy established under the *Legislative Assembly Act*, or any member of the Executive Council to represent, for the purposes of sections 7 and 8, any office or body reporting directly to the Assembly.

- b) prévoir la conservation et la destruction des dossiers qui concernent l'encaissement ou le décaissement des deniers publics;
- c) exclure une régie, un conseil, une commission, un office, une personne morale, un organisme de la Couronne ou un autre organisme de la définition de «ministère» qui est énoncée à l'article 1;
- d) désigner le président de l'Assemblée, le président de la Commission de régie interne créée en vertu de la loi intitulée *Legislative Assembly Act* («Loi sur l'Assemblée législative») ou un membre du Conseil exécutif comme représentant, pour l'application des articles 7 et 8, des bureaux ou organismes relevant directement de l'Assemblée.

## Repeals

**11.** Subsection 1 (2), clauses 3 (1) (a), (b) and (c), sections 4 and 5 and clause 6 (a) of the *Management Board of Cabinet Act* are repealed.

**11** Le paragraphe 1 (2), les alinéas 3 (1) (a), (b) et (c), les articles 4 et 5 et l'alinéa 6 (a) de la loi intitulée *Management Board of Cabinet Act* («Loi sur le Conseil de gestion du gouvernement») sont abrogés.

Abrogations

## Commencement

**12.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

**12** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

## Short title

**13.** The short title of this Act is the *Treasury Board Act, 1991*.

**13** Le titre abrégé de la présente loi est *Loi de 1991 sur le Conseil du Trésor*.

Titre abrégé





Bill 82

Projet de loi 82

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 82**

(Chapter 14  
*Statutes of Ontario, 1991*)

**An Act to establish the Treasury Board**

**The Hon. F. Laughren**

Treasurer of Ontario and Minister of Economics

**Projet de loi 82**

(Chapitre 14  
*Lois de l'Ontario de 1991*)

**Loi créant le Conseil du Trésor**

**L'honorable F. Laughren**

Trésorier de l'Ontario et ministre de l'Économie



1st Reading	April 29th, 1991
2nd Reading	June 20th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

1 <sup>re</sup> lecture	29 avril 1991
2 <sup>e</sup> lecture	20 juin 1991
3 <sup>e</sup> lecture	24 juin 1991
sanction royale	27 juin 1991



## An Act to establish the Treasury Board

## Loi créant le Conseil du Trésor

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1. Definitions
2. Treasury Board established
3. Members and quorum
4. Chair and vice-chair
5. Procedure
6. Powers and duties
7. Special warrants
8. Board orders
9. Expenditure transfer
10. Regulations
11. Repeals
12. Commencement
13. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

**1.**—(1) In this Act,

“appropriation” includes the amount shown for a vote or item in the estimates or supplementary estimates presented to the Assembly; (“affectation de crédits”)

“ministry” means a ministry of the Government of Ontario and includes,

- (a) a board, commission, authority, corporation without share capital, Crown agency or other body the majority of the members of any of which are appointed by the Crown, and
- (b) a corporation with share capital in which the majority of shares entitled to vote are held by or for the Crown. (“ministère”)

Idem

(2) A word or expression that is not defined in subsection (1) and that is defined in section 1 of the *Financial Administration Act* has the same meaning in this Act as in the *Financial Administration Act*.

Treasury Board established

**2.** A committee of the Executive Council to be known in English as the Treasury Board and in French as Conseil du Trésor is hereby established.

### SOMMAIRE

1. Définitions
2. Création du Conseil du Trésor
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4. Président et vice-président
5. Procédure
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7. Mandats spéciaux
8. Arrêtés du Conseil
9. Transfert de budget
10. Règlements
11. Abrogations
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13. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Les définitions qui suivent s'appliquent à la présente loi.

Définitions

«affectation de crédits» S'entend en outre du montant d'un crédit ou d'un poste qui est indiqué dans le budget des dépenses ou le budget des dépenses supplémentaire présenté à l'Assemblée. («appropriation»)

«ministère» S'entend d'un ministère du gouvernement de l'Ontario et s'entend en outre :

- a) d'une régie, d'un conseil, d'une commission, d'un office, d'une personne morale sans capital-actions, d'un organisme de la Couronne et de tout autre organisme dont la majorité des membres sont nommés par la Couronne;
- b) d'une personne morale avec capital-actions dont la majorité des actions assorties du droit de vote sont détenues par la Couronne ou pour son compte. («ministry»)

(2) Les termes qui ne sont pas définis au paragraphe (1), mais qui sont définis à l'article 1 de la loi intitulée *Financial Administration Act* («Loi sur l'administration financière»), ont le même sens dans la présente loi que dans cette dernière loi.

Idem

**2** Est créé un comité du Conseil exécutif appelé Conseil du Trésor en français et Treasury Board en anglais.

Création du Conseil du Trésor



Members	<b>3.</b> —(1) The members of the Board are the Treasurer of Ontario and Minister of Economics, the Chair of the Management Board of Cabinet and not fewer than four or more than eight other members appointed by the Lieutenant Governor in Council from among the members of the Executive Council.	<b>3</b> (1) Le Conseil se compose du trésorier de l'Ontario et ministre de l'Économie, du président du Conseil de gestion du gouvernement et de quatre à huit autres membres du Conseil exécutif nommés par le lieutenant-gouverneur en conseil.	Composition
Alternate members	(2) The Lieutenant Governor in Council may appoint from among the members of the Executive Council alternate members of the Board to act in the absence of Board members other than the Treasurer or the Chair of the Management Board of Cabinet.	(2) Le lieutenant-gouverneur en conseil peut nommer d'autres membres du Conseil exécutif pour siéger à titre de membres suppléants du Conseil en cas d'absence des membres du Conseil autres que le trésorier ou le président du Conseil de gestion du gouvernement.	Membres suppléants
Quorum	(3) Three members constitute a quorum of the Board.	(3) Trois membres du Conseil constituent le quorum.	Quorum
Chair and vice-chair	<b>4.</b> —(1) The Lieutenant Governor in Council may designate the chair and vice-chair of the Board.	<b>4</b> (1) Le lieutenant-gouverneur en conseil peut désigner le président et le vice-président du Conseil.	Président et vice-président
Chair's duties	(2) The chair shall preside at Board meetings, is responsible for its operation and administration and, between its meetings, shall exercise or perform such of its powers, duties and functions as the Board may authorize.	(2) Le président préside les réunions du Conseil et assure son fonctionnement et son administration. Entre les réunions, il exerce les pouvoirs et les fonctions que le Conseil l'autorise à exercer.	Fonctions du président
Absence of chair or vice-chair	(3) When the chair is absent from a meeting of the Board, the vice-chair shall preside, and when both are absent, the members present at the meeting shall elect a chair for the meeting.	(3) Si le président est absent d'une réunion du Conseil, le vice-président assume la présidence. Si les deux sont absents, les membres présents élisent l'un des leurs pour la présider.	Absence du président ou du vice-président
Procedure	<b>5.</b> —(1) The Board may determine its rules and methods of procedure and shall keep records of its decisions and proceedings.	<b>5</b> (1) Le Conseil peut établir ses règles de procédure et tient des dossiers de ses décisions et de ses délibérations.	Procédure
Operation of board	(2) Subject to the direction of the chair of the Board, the Deputy Treasurer of Ontario and Deputy Minister of Economics, or such other officer of the public service as is designated by order of the Lieutenant Governor in Council, is responsible for the operation of the Board in accordance with its policies and procedures.	(2) Sous réserve des directives du président du Conseil, le trésorier adjoint de l'Ontario et sous-ministre de l'Économie, ou tout autre fonctionnaire que désigne par décret le lieutenant-gouverneur en conseil, assure le fonctionnement du Conseil conformément à ses politiques et à ses procédures.	Fonctionnement du Conseil
Board staff	(3) The Ministry of Treasury and Economics shall provide the staff required for the operation and administration of the Board.	(3) Le ministère du Trésor et de l'Économie fournit le personnel nécessaire au fonctionnement et à l'administration du Conseil.	Personnel
Delegation	(4) The Board may delegate in writing to members of the Board or to persons employed in the Ministry of Treasury and Economics any power, duty or function of the Board, subject to such limitations and requirements as may be set out in the delegation.	(4) Le Conseil peut déléguer par écrit à des membres du Conseil, ou à des personnes employées par le ministère du Trésor et de l'Économie les pouvoirs ou les fonctions du Conseil, sous réserve des restrictions et des conditions énoncées dans la délégation.	Délégation
Powers and duties	<b>6.</b> —(1) The powers and duties of the Board are,  (a) to assess the adequacy of plans for the implementation of programs approved or provided for by the Legislature;  (b) to direct the preparation and review of forecasts, estimates and analyses of	<b>6</b> (1) Les pouvoirs et les fonctions du Conseil sont les suivants :  a) évaluer les plans de mise en oeuvre des programmes approuvés ou prévus par la Législature pour voir s'ils sont adéquats;  b) diriger la préparation et l'examen des prévisions et analyses des dépenses et	Pouvoirs et fonctions

short term and long term expenditures and expenditure commitments and other data pertaining to authorized or proposed programs of any ministry;

(c) to direct, and establish policies for, the preparation, form and content of estimates and supplementary estimates submitted to the Legislature for any ministry;

(d) to determine fees or charges for the provision of services by any ministry or for the use of the facilities of a ministry and to require the ministry to take such action as is necessary to implement the determination;

(e) to review and evaluate new and existing programs of any ministry and determine priorities with respect thereto;

(f) to control expenditures of public money within the amounts appropriated or otherwise provided by the Legislature; and

(g) to carry out or perform any directions or responsibilities given to the Board by the Executive Council.

Direction by  
Executive  
Council

(2) The Board is subject to the direction of the Executive Council, which may amend or revoke any action of the Board.

Directives

(3) The Board may issue such financial and administrative directives as it considers necessary in the performance of its duties.

Production  
of docu-  
ments

(4) A ministry shall give the Board access to, and copies of, any account, return, statement, document, report or information in the possession or control of the ministry when the Board requires the account, statement, document, report or information for the performance of its duties.

Special  
warrants

7.—(1) When the Legislature is not in session and a matter arises that requires the expenditure of money for which there is no appropriation by the Legislature, the Lieutenant Governor in Council, upon the report of the Board estimating the amount required for the expenditure, may order a special warrant to be prepared to be signed by the Lieutenant Governor authorizing the payment of the amount estimated to be required for the expenditure, and the amount shall be paid from the Consolidated Revenue Fund as specified in the special warrant.

Warrant an  
appropriation

(2) Subject to subsection (3), a special warrant is an appropriation for the fiscal year in which it is issued.

Idem

(3) A special warrant issued in March of one fiscal year may provide that it applies

engagements de dépenses à court et à long terme et des autres données concernant les programmes autorisés ou projetés des ministères;

c) diriger la préparation, la forme et le contenu des budgets des dépenses et des budgets des dépenses supplémentaires des ministères qui sont présentés à la Législature et établir des politiques à cet égard;

d) fixer le prix de prestation de services par les ministères ou d'utilisation de leurs installations et exiger de ceux-ci qu'ils prennent les mesures nécessaires pour exécuter la décision;

e) revoir et évaluer les nouveaux programmes et les programmes existants des ministères et établir les priorités à cet égard;

f) veiller à ce que les dépenses de deniers publics n'excèdent pas les sommes prévues par la Législature, notamment les affectations de crédits;

g) appliquer les directives ou s'acquitter des responsabilités données au Conseil par le Conseil exécutif.

(2) Le Conseil est assujéti aux directives du Conseil exécutif, qui peut modifier ou révoquer les mesures prises par le Conseil.

(3) Le Conseil peut, dans l'exercice de ses fonctions, donner les directives financières et administratives qu'il juge nécessaires.

(4) Lorsque le Conseil l'exige pour l'exercice de ses fonctions, les ministères lui donnent accès aux comptes, relevés, états, déclarations, rapports ou autres documents ainsi qu'aux renseignements qui se trouvent en leur possession ou dont ils ont le contrôle et lui en remettent des copies.

7 (1) Lorsque la Législature ne siège pas et qu'il survient un événement qui exige une dépense pour laquelle la Législature n'a prévu aucune affectation de crédits, le lieutenant-gouverneur en conseil, sur présentation d'un rapport du Conseil contenant son évaluation du montant exigé, peut faire établir un mandat spécial que signe le lieutenant-gouverneur et qui autorise le paiement du montant. Celui-ci est prélevé sur le Trésor comme le précise le mandat spécial.

(2) Sous réserve du paragraphe (3), le mandat spécial constitue une affectation de crédits pour l'exercice au cours duquel il est établi.

(3) Le mandat spécial qui est établi au mois de mars pendant un exercice peut pré-

Directives du  
Conseil exé-  
cutif

Directives du  
Conseil

Production de  
documents

Mandats  
spéciaux

Le mandat  
constitue une  
affectation de  
crédits

Idem



with respect to the next fiscal year and it is an appropriation in that next fiscal year.

Board orders

**8.**—(1) The Board may by order authorize payments to supplement the amount of any appropriation when the amount provided in the appropriation is insufficient to carry out the purpose for which the appropriation was made.

Idem

(2) An order under subsection (1) shall provide that the amount of the payments be offset by limiting the expenditures to be made under any appropriation for the same fiscal year that is not exhausted or that, in the opinion of the Board, is unlikely to be fully spent in the fiscal year.

Report required

(3) An order may be made under subsection (1) only if the Board has received from the ministry responsible for the program to which the proposed supplementary appropriation relates, or from a person or officer prescribed by the regulations made under this Act, a report in writing setting out the necessity for further payments and the reason why the appropriation, unless supplemented, is insufficient.

Timing

(4) An order under subsection (1) may be made at any time before the 1st day of May following the end of the fiscal year for which the appropriation that is supplemented was made.

Expenditure transfer

**9.**—(1) When powers and duties are assigned and transferred from one minister of the Crown to another, the Board may transfer to the ministry administered by the minister to whom the powers and duties are assigned and transferred the appropriate sums in the votes and items of the estimates and supplementary estimates for the expenditures in the fiscal year for the exercise and performance of those powers and duties.

Certificate of Board

(2) The Board shall issue to the ministry of the minister to whom powers and duties are assigned and transferred a certificate stating the amount of the sums transferred under subsection (1) and such other information as the Board considers necessary.

Expenditures authorized

(3) A certificate is effective from the date stated in it and transfers to the ministry to which it is issued the authority for the portion of the fiscal year beginning with that date to make the expenditure of the sums transferred.

Regulations

**10.** Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

- (a) respecting the accounting for, and the collection, management and administration of, public money;

voir qu'il s'applique à l'exercice suivant et qu'il s'agit d'une affectation de crédits pour cet exercice suivant.

Arrêtés du Conseil

**8** (1) Le Conseil peut, par arrêté, autoriser des paiements qui viennent s'ajouter au montant d'une affectation de crédits lorsque celle-ci est insuffisante pour réaliser son objet.

Idem

(2) L'arrêté prévu au paragraphe (1) prévoit que le montant des paiements sera compensé en limitant les dépenses prévues pour le même exercice au titre d'une affectation de crédits qui n'est pas encore épuisée ou qui, de l'avis du Conseil, ne le sera vraisemblablement pas au cours de l'exercice.

Rapport

(3) Un arrêté ne peut être rendu aux termes du paragraphe (1) que si le Conseil reçoit du ministère responsable du programme visé par l'affectation de crédits supplémentaire demandée, ou d'une personne ou d'un fonctionnaire prescrit par les règlements pris en application de la présente loi, un rapport écrit concluant à la nécessité de paiements supplémentaires et expliquant l'insuffisance de l'affectation de crédits actuelle.

Prise de l'arrêté

(4) L'arrêté prévu au paragraphe (1) peut être pris à tout moment avant le 1<sup>er</sup> mai suivant la fin de l'exercice pour lequel l'affectation de crédits qui a été majorée a été prévue.

Transfert de budget

**9** (1) Lorsque des pouvoirs et des fonctions sont attribués puis transférés d'un ministre de la Couronne à un autre, le Conseil peut transférer au ministère relevant du ministre auquel sont attribués et transférés les pouvoirs et fonctions les sommes appropriées prévues dans les crédits et les postes du budget des dépenses et du budget des dépenses supplémentaires, pour couvrir les dépenses de l'exercice afin de lui permettre d'exercer ces pouvoirs et fonctions.

Certificat du Conseil

(2) Le Conseil délivre au ministère du ministre auquel sont attribués et transférés les pouvoirs et fonctions un certificat énonçant le montant des sommes transférées en vertu du paragraphe (1) et les autres renseignements que le Conseil estime nécessaires.

Dépenses autorisées

(3) Le certificat est en vigueur à compter de la date qui y est indiquée et transfère au ministère auquel il est délivré, pour la partie de l'exercice qui commence à cette date-là, le pouvoir de dépenser les sommes transférées.

Règlements

**10** Sous réserve de l'approbation du lieutenant-gouverneur en conseil, le Conseil peut, par règlement :

- a) prévoir la comptabilisation, la perception, la gestion et l'administration des deniers publics;

- (b) respecting the retention and disposal of records concerning the receipt or disbursement of public money;
- (c) providing that a board, commission, authority, corporation, Crown agency or other body does not fall within the definition of "ministry" set out in section 1;
- (d) designating the Speaker of the Assembly, the chair of the Board of Internal Economy established under the *Legislative Assembly Act*, or any member of the Executive Council to represent, for the purposes of sections 7 and 8, any office or body reporting directly to the Assembly.

- b) prévoir la conservation et la destruction des dossiers qui concernent l'encaissement ou le décaissement des deniers publics;
- c) exclure une régie, un conseil, une commission, un office, une personne morale, un organisme de la Couronne ou un autre organisme de la définition de «ministère» qui est énoncée à l'article 1;
- d) désigner le président de l'Assemblée, le président de la Commission de régie interne créée en vertu de la loi intitulée *Legislative Assembly Act* («*Loi sur l'Assemblée législative*») ou un membre du Conseil exécutif comme représentant, pour l'application des articles 7 et 8, des bureaux ou organismes relevant directement de l'Assemblée.

## Repeals

**11.** Subsection 1 (2), clauses 3 (1) (a), (b) and (c), sections 4 and 5 and clause 6 (a) of the *Management Board of Cabinet Act* are repealed.

**11** Le paragraphe 1 (2), les alinéas 3 (1) (a), (b) et (c), les articles 4 et 5 et l'alinéa 6 (a) de la loi intitulée *Management Board of Cabinet Act* («*Loi sur le Conseil de gestion du gouvernement*») sont abrogés.

## Abrogations

Commence-  
ment

**12.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

**12** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

## Short title

**13.** The short title of this Act is the *Treasury Board Act, 1991*.

**13** Le titre abrégé de la présente loi est *Loi de 1991 sur le Conseil du Trésor*.

## Titre abrégé





92 On  
XB  
256

Bill 83

Government Bill

Projet de loi 83

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 83

**An Act to amend the Income Tax Act**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

## Projet de loi 83

**Loi portant modification de la Loi de  
l'impôt sur le revenu**

**L'honorable S. Wark-Martyn**  
Ministre du Revenu



1st Reading     April 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture     29 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposal contained in the Budget of the 29th day of April, 1991 to increase the surcharge imposed under the *Income Tax Act* on personal income tax in excess of \$10,000.

**SECTION 1.** The re-enactment of section 2b of the Act increases the rate of the surcharge from 10 per cent of Ontario personal income tax in excess of \$10,000 to 12 per cent for 1991 and 14 per cent for subsequent years.

The Bill amends only the English version of the *Income Tax Act*. The Legislature has not yet adopted an official French version of this Act.

## NOTES EXPLICATIVES

**OBJET GÉNÉRAL** Le projet de loi met en application la proposition contenue dans le budget du 29 avril 1991, laquelle vise à augmenter l'impôt supplémentaire, établi en vertu de la *Loi de l'impôt sur le revenu*, sur tout impôt sur le revenu d'un particulier qui dépasse 10 000 \$.

**ARTICLE 1** La nouvelle adoption de l'article 2b de la Loi fait passer le taux de l'impôt supplémentaire de 10 pour cent de l'impôt ontarien sur le revenu d'un particulier qui dépasse 10 000 \$ à 12 pour cent pour 1991 et à 14 pour cent pour les années suivantes.

Le projet de loi ne modifie que la version anglaise de la *Loi de l'impôt sur le revenu*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

## An Act to amend the Income Tax Act

## Loi portant modification de la Loi de l'impôt sur le revenu

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 2b of the *Income Tax Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 2, is repealed and the following substituted:

Surcharge

**2b.**—(1) In addition to the amount of tax otherwise payable under this Act, every individual shall pay an additional income tax equal to 12 per cent for the 1991 taxation year and 14 per cent for the 1992 and subsequent taxation years of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds \$10,000.

"Gross tax amount"

(2) The gross tax amount of an individual for a taxation year for the purposes of subsection (1) is the amount of tax that would be payable by the individual for the taxation year under this Act before the addition of any amount determined under subsection (1) and before the deduction of any amount under subsection 3 (8) or section 7.

Commence-  
ment

**2.** This Act shall be deemed to have come into force on the 1st day of January, 1991.

Short title

**3.** The short title of this Act is the *Income Tax Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'article 2b de la loi intitulée *Income Tax Act* («*Loi de l'impôt sur le revenu*»), tel qu'il a été adopté de nouveau par l'article 2 du chapitre 73 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

**2** La présente loi est réputée être entrée en vigueur le 1<sup>er</sup> janvier 1991.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de l'impôt sur le revenu*.

Entrée en  
vigueur

Titre abrégé





75  
- 656

Bill 83

Projet de loi 83

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 83**

*(Chapter 47  
Statutes of Ontario, 1991)*

**Projet de loi 83**

*(Chapitre 47  
Lois de l'Ontario de 1991)*

**An Act to amend the Income Tax Act**

**Loi portant modification de la Loi de  
l'impôt sur le revenu**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

**L'honorable S. Wark-Martyn**  
Ministre du Revenu



1st Reading	April 29th, 1991
2nd Reading	October 22nd, 1991
3rd Reading	December 19th, 1991
Royal Assent	December 19th, 1991

1 <sup>re</sup> lecture	29 avril 1991
2 <sup>e</sup> lecture	22 octobre 1991
3 <sup>e</sup> lecture	19 décembre 1991
sanction royale	19 décembre 1991



## An Act to amend the Income Tax Act

## Loi portant modification de la Loi de l'impôt sur le revenu

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 2b of the *Income Tax Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 2, is repealed and the following substituted:

Surcharge

**2b.**—(1) In addition to the amount of tax otherwise payable under this Act, every individual shall pay an additional income tax equal to 12 per cent for the 1991 taxation year and 14 per cent for the 1992 and subsequent taxation years of the amount, if any, by which the gross tax amount of the individual for the taxation year exceeds \$10,000.

"Gross tax amount"

(2) The gross tax amount of an individual for a taxation year for the purposes of subsection (1) is the amount of tax that would be payable by the individual for the taxation year under this Act before the addition of any amount determined under subsection (1) and before the deduction of any amount under subsection 3 (8) or section 7.

Commence-  
ment

**2.** This Act shall be deemed to have come into force on the 1st day of January, 1991.

Short title

**3.** The short title of this Act is the *Income Tax Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'article 2b de la loi intitulée *Income Tax Act* («*Loi de l'impôt sur le revenu*»), tel qu'il a été adopté de nouveau par l'article 2 du chapitre 73 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

**2** La présente loi est réputée être entrée en vigueur le 1<sup>er</sup> janvier 1991.

Entrée en  
vigueur

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de l'impôt sur le revenu*.

Titre abrégé





Bill 84

Government Bill

Projet de loi 84

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 84

### An Act to amend the Tobacco Tax Act

**The Hon. S. Wark-Martyn**  
Minister of Revenue

1st Reading      April 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 84

### Loi portant modification de la Loi de la taxe sur le tabac

**L'honorable S. Wark-Martyn**  
Ministre du Revenu

1<sup>re</sup> lecture      29 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposals contained in the Treasurer's Budget of the 29th day of April, 1991 as well as the enumerated administrative changes.

**SECTION 1.** The amendment more accurately describes the motor vehicles permitted to operate on the roads under the *Highway Traffic Act*.

**SECTION 2.** The amendments implement the Treasurer's Budget proposal raising the tax on cigarettes by 1.67 cents per cigarette and on cut tobacco by 1.67 cents per gram to 6.5 cents per cigarette or gram.

**SECTION 3.** The authority to detain interjurisdictional transporters is amended to require knowledge on reasonable and probable grounds of the specified violations prior to detention to reflect Charter of Rights protection, as well as to apply the authority to those transporting tobacco in bulk on behalf of importers.

**SECTION 4.** The authority to detain vehicles, including trailers, vessels, rail equipment and aircraft is amended to require knowledge on reasonable and probable grounds of any violations under the Act prior to detention to reflect Charter of Rights protection.

**SECTION 5.** Provisions are added to the Act to make directors of a corporation jointly and severally liable for amounts of tax not collected or collected and not remitted that remains owing and unpaid by the corporation.

**SECTION 6.** The authority to make regulations to provide a system for sale of cigarettes to persons who are exempt from payment of tax is re-enacted to include cut tobacco in the system.

The Bill amends only the English version of the *Tobacco Tax Act*. The Legislature has not yet adopted an official French version of this Act.

## NOTES EXPLICATIVES

**OBJET GÉNÉRAL** Le projet de loi met en application les propositions contenues dans le budget du 29 avril 1991, présenté par le trésorier, ainsi que les changements administratifs énumérés.

**ARTICLE 1** La modification précise les véhicules automobiles dont l'utilisation est autorisée sur les routes en vertu du *Code de la route*.

**ARTICLE 2** Les modifications mettent en application la proposition contenue dans le budget présenté par le trésorier qui vise à augmenter la taxe sur les cigarettes de 1,67 cent par cigarette et la taxe sur le tabac haché de 1,67 cent par gramme, la taxe passant ainsi à 6,5 cents par cigarette ou gramme.

**ARTICLE 3** Le pouvoir de retenir un transporteur interterritorial est modifié de la façon suivante : il faudra avoir des motifs raisonnables et probables de croire qu'une infraction précise a été commise avant de retenir le transporteur, pour tenir compte des mesures de protection prévues par la *Charte des droits et libertés*, et le pouvoir s'appliquera aussi à ceux qui transportent du tabac en vrac pour le compte d'un importateur.

**ARTICLE 4** Le pouvoir de retenir un véhicule, ainsi que sa remorque, un bâtiment, du matériel de chemin de fer ou un aéronef est modifié de la façon suivante : dorénavant, il faudra avoir des motifs raisonnables et probables de croire qu'une infraction précise a été commise avant de retenir le transporteur, pour tenir compte des mesures de protection prévues par la *Charte des droits et libertés*.

**ARTICLE 5** Des dispositions sont ajoutées à la Loi pour rendre les administrateurs d'une personne morale solidairement responsables de la taxe qui n'a pas été perçue, ou qui a été perçue mais n'a pas été remise, et que la personne morale doit toujours.

**ARTICLE 6** La disposition accordant le pouvoir de prévoir, par règlement, un mécanisme de vente des cigarettes aux personnes qui sont exonérées du paiement de la taxe est adoptée de nouveau pour inclure le tabac haché.

Le projet de loi ne modifie que la version anglaise de la *Loi de la taxe sur le tabac*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

## An Act to amend the Tobacco Tax Act

## Loi portant modification de la Loi de la taxe sur le tabac

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subclause 1 (bd) (i) of the *Tobacco Tax Act*, as enacted by the Statutes of Ontario, 1990, chapter 13, section 1, is repealed and the following substituted:

- (i) one or more motor vehicles inside or outside Ontario to which number plates are attached as required by the *Highway Traffic Act*.

**2.** Clauses 2 (1) (a) and (b) of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 13, section 2, are repealed and the following substituted:

- (a) 6.5 cents on every cigarette purchased by the consumer;
- (b) 6.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars purchased by the consumer; and

**3.** Subsection 3c (6) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 13, section 5, is repealed and the following substituted:

Detention of  
vehicles

- (6) Any person who is authorized for the purpose by the Minister and who has reasonable and probable grounds to believe that an interjurisdictional transporter does not hold a registration certificate or is transporting tobacco in bulk on behalf of an importer or exporter who does not hold a registration certificate issued under this Act may, without warrant, stop and detain any vehicle operated in Ontario by the interjurisdictional transporter and require production of the documents specified in subsection (5).

**4.** Subsection 15 (1) of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 13, section 13, is amended by inserting after "Minister" in the third line "who has reasonable and probable grounds to believe that the vehicle, trailer attached to a vehicle, vessel, railway equipment on rails or aircraft contains evidence of any contravention of this Act".

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** Le sous-alinéa 1 (bd) (i) de la loi intitulée *Tobacco Tax Act* («*Loi de la taxe sur le tabac*»), tel qu'il est adopté par l'article 1 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

**2** Les alinéas 2 (1) (a) et (b) de la Loi, tels qu'ils sont adoptés de nouveau par l'article 2 du chapitre 13 des Lois de l'Ontario de 1990, sont abrogés et remplacés par ce qui suit :

**3** Le paragraphe 3c (6) de la Loi, tel qu'il est adopté par l'article 5 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

**4** Le paragraphe 15 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 13 du chapitre 13 des Lois de l'Ontario de 1990, est modifié par insertion, après «Minister» à la troisième ligne, de «who has reasonable and probable grounds to believe that the vehicle, trailer attached to a vehicle, vessel, railway equipment on rails or aircraft contains evidence of any contravention of this Act».



**5. The Act is amended by adding the following section:**

**5 La Loi est modifiée par adjonction de l'article suivant :**

Directors

**20a.**—(1) If a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty related thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty related thereto, are jointly and severally liable, together with the corporation, to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

(a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 16 (1) (b) and the warrant has been returned by the sheriff unsatisfactory in whole or in part; or

(b) the corporation has made an assignment or a receiving order has been issued against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

Prudent director

(3) A director of a corporation is not liable for a failure described in subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would exercise in comparable circumstances.

Assessment

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with necessary modifications.

Time limit

(5) An assessment under subsection (4) shall not be made more than two years after the person last ceased to be a director of the corporation.

Execution

(6) If execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Idem

(7) If a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Ontario would be entitled to had the amount not been so paid and, where a warrant of execution has been issued under clause 16 (1) (b),

the director is entitled to the assignment of the warrant of execution to the extent of the director's payment, and the Minister may make the assignment.

**6.** Clause 28 (1) (p) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 13, section 23, is repealed and the following substituted:

**6** L'alinéa 28 (1) (p) de la Loi, tel qu'il est adopté par l'article 23 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

- (p) providing a system for the sale of unmarked cigarettes and tobacco, other than cigarettes or cigars, to classes of persons who are exempt from the payment of the tax imposed by this Act, including limiting the quantity of unmarked cigarettes and tobacco, other than cigarettes or cigars, to be sold to retail dealers for resale to such consumers.

Commence-  
ment

**7.—(1)** This Act, except as provided in subsection (2), comes into force on the day it receives Royal Assent.

**7 (1)** La présente loi, sous réserve du paragraphe (2), entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Idem

**(2)** Section 2 shall be deemed to have come into force on the 30th day of April, 1991.

**(2)** L'article 2 est réputé être entré en vigueur le 30 avril 1991.

Idem

Short title

**8.** The short title of this Act is the *Tobacco Tax Amendment Act, 1991*.

**8** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur le tabac*.

Titre abrégé









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- B56

Publica

**Bill 84**

**Projet de loi 84**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 84**

*(Chapter 48  
Statutes of Ontario, 1991)*

**Projet de loi 84**

*(Chapitre 48  
Lois de l'Ontario de 1991)*

**An Act to amend the Tobacco Tax Act**

**Loi portant modification de la Loi de la  
taxe sur le tabac**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

**L'honorable S. Wark-Martyn**  
Ministre du Revenu



1st Reading      April 29th, 1991  
2nd Reading      October 23rd, 1991  
3rd Reading      December 19th, 1991  
Royal Assent      December 19th, 1991

1<sup>re</sup> lecture      29 avril 1991  
2<sup>e</sup> lecture      23 octobre 1991  
3<sup>e</sup> lecture      19 décembre 1991  
sanction royale      19 décembre 1991



## An Act to amend the Tobacco Tax Act

## Loi portant modification de la Loi de la taxe sur le tabac

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subclause 1 (bd) (i) of the *Tobacco Tax Act*, as enacted by the Statutes of Ontario, 1990, chapter 13, section 1, is repealed and the following substituted:

- (i) one or more motor vehicles inside or outside Ontario to which number plates are attached as required by the *Highway Traffic Act*.

**2.** Clauses 2 (1) (a) and (b) of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 13, section 2, are repealed and the following substituted:

- (a) 6.5 cents on every cigarette purchased by the consumer;
- (b) 6.5 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars purchased by the consumer; and

**3.** Subsection 3c (6) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 13, section 5, is repealed and the following substituted:

Detention of  
vehicles

- (6) Any person who is authorized for the purpose by the Minister and who has reasonable and probable grounds to believe that an interjurisdictional transporter does not hold a registration certificate or is transporting tobacco in bulk on behalf of an importer or exporter who does not hold a registration certificate issued under this Act may, without warrant, stop and detain any vehicle operated in Ontario by the interjurisdictional transporter and require production of the documents specified in subsection (5).

**4.** Subsection 15 (1) of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 13, section 13, is amended by inserting after "Minister" in the third line "who has reasonable and probable grounds to believe that the vehicle, trailer attached to a vehicle, vessel, railway equipment on rails or aircraft contains evidence of any contravention of this Act".

**5.** The Act is amended by adding the following section:

Directors

- 20a.**—(1) If a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** Le sous-alinéa 1 (bd) (i) de la loi intitulée *Tobacco Tax Act* («Loi de la taxe sur le tabac»), tel qu'il est adopté par l'article 1 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

**2** Les alinéas 2 (1) (a) et (b) de la Loi, tels qu'ils sont adoptés de nouveau par l'article 2 du chapitre 13 des Lois de l'Ontario de 1990, sont abrogés et remplacés par ce qui suit :

**3** Le paragraphe 3c (6) de la Loi, tel qu'il est adopté par l'article 5 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :

**4** Le paragraphe 15 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 13 du chapitre 13 des Lois de l'Ontario de 1990, est modifié par insertion, après «Minister» à la troisième ligne, de «who has reasonable and probable grounds to believe that the vehicle, trailer attached to a vehicle, vessel, railway equipment on rails or aircraft contains evidence of any contravention of this Act».

**5** La Loi est modifiée par adjonction de l'article suivant :



interest or penalty related thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty related thereto, are jointly and severally liable, together with the corporation, to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 16 (1) (b) and the warrant has been returned by the sheriff unsatisfied in whole or in part; or
- (b) the corporation has made an assignment or a receiving order has been issued against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

Prudent director

(3) A director of a corporation is not liable for a failure described in subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would exercise in comparable circumstances.

Assessment

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with necessary modifications.

Time limit

(5) An assessment under subsection (4) shall not be made more than two years after the person last ceased to be a director of the corporation.

Execution

(6) If execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Idem

(7) If a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Ontario would be entitled to had the amount not been so paid and, where a warrant of execution has been issued under clause 16 (1) (b), the director is entitled to the assignment of the warrant of execution to the extent of the director's payment, and the Minister may make the assignment.

**6. Clause 28 (1) (p) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 13, section 23, is repealed and the following substituted:**

**6 L'alinéa 28 (1) (p) de la Loi, tel qu'il est adopté par l'article 23 du chapitre 13 des Lois de l'Ontario de 1990, est abrogé et remplacé par ce qui suit :**

- (p) providing a system for the sale of unmarked cigarettes and tobacco, other than cigarettes or cigars, to classes of persons who are exempt from the payment of the tax imposed by this Act, including limiting the quantity of unmarked cigarettes and tobacco, other than cigarettes or cigars, to be sold to retail dealers for resale to such consumers.

Commence-  
ment

**7.—(1) This Act, except as provided in subsection (2), comes into force on the day it receives Royal Assent.**

**7 (1) La présente loi, sous réserve du paragraphe (2), entre en vigueur le jour où elle reçoit la sanction royale.**

Entrée en  
vigueur

Idem

(2) Section 2 shall be deemed to have come into force on the 30th day of April, 1991.

(2) L'article 2 est réputé être entré en vigueur le 30 avril 1991. Idem

Short title

8. The short title of this Act is the *Tobacco Tax Amendment Act, 1991*.

8 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur le tabac*. Titre abrégé









Bill 85

Government Bill

Projet de loi 85

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 85

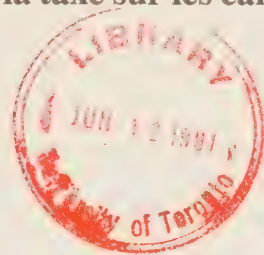
**An Act to amend the Fuel Tax Act, 1981**

**The Hon. S. Wark-Martyn**  
Minister of Revenue

1st Reading      April 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 85

**Loi portant modification de la Loi de  
1981 de la taxe sur les carburants**



**L'honorable S. Wark-Martyn**  
Ministre du Revenu

1<sup>re</sup> lecture      29 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

## EXPLANATORY NOTES

**GENERAL.** The Bill implements the tax changes contained in the Treasurer's Budget of April 29, 1991. It is intended also to reduce evasion of tax by requiring the registration and bonding of importers, exporters and interjurisdictional transporters of fuel and by providing for increased fines and penalties for non-compliance. The Bill also permits those without terminal facilities to become collectors with the separate registration of fuel dyers.

**SECTION 1.** The definitions are complementary to the amendments set out in the Bill.

**SECTION 2.** The section consolidates existing provisions imposing liability to pay tax now in section 4, including the budgetary changes contained in subsection 4 (1) of the Bill, but increases the maximum fine for knowingly failing to pay tax.

**SECTION 3.** The section contains provisions that specify the responsibilities of collectors, importers, wholesalers and retailers to collect tax.

**SECTION 4.—Subsection 1.** This amendment implements the Treasurer's 1991 budget proposal to increase the tax on clear fuel not used by railway equipment, effective the 30th day of April, 1991, by 1.7 cents to 12.6 cents per litre and, effective the 1st day of January, 1992, by another 1.7 cents to 14.3 cents per litre. It will increase the tax on clear fuel used by railway equipment, effective the 30th day of April, 1991, by 0.55 cents to 3.95 cents per litre and, effective the 1st day of January, 1992, by another 0.55 cents to 4.5 cents per litre. This provision is re-enacted as subsection 2 (1) of the Act effective the 1st day of January, 1992.

**Subsection 2.** Importers will be required to register and then will be able to avoid payment of tax at the Canadian border. The responsibilities of registered importers are specified. Exporters will be required to register and their responsibilities are specified. Provisions are also included that permit the issuance of fuel acquisition permits to registered consumers.

**SECTION 5.** Provisions are set out that,

- (a) require the registration of interjurisdictional carriers or their application for trip registration certificates; the Minister is authorized to issue registration decals to be affixed to trucks; and
- (b) permit collectors to apply to be registered dyers of fuel with specified responsibilities.

**SECTION 6.** Motor vehicles may be detained to ensure that the Act is being complied with and penalties for non-compliance are increased.

**SECTION 7.** Section 6 of the Act is revised to require the delivery of invoices to purchasers of fuel, to require purchasers to obtain invoices and to provide an offence for failure to comply.

**SECTION 8.** Record keeping is required by persons in the listed categories.

**SECTION 9.** Security will be required from collectors, registered importers, registered exporters, registered dyers, registered consumers and interjurisdictional carriers.

**SECTION 10.** Interjurisdictional transporters will be required to register and their responsibilities are specified. Seizure of fuel is permitted from those who fail to comply with the Act. Disposal of fuel is provided for if a penalty is not paid.

**SECTION 11.** The Minister is authorized to refuse to designate or register any person and to cancel or suspend a designation or registration. Hearings are provided for.

## NOTES EXPLICATIVES

**OBJET GÉNÉRAL** Le projet de loi met en application les modifications contenues dans le budget du 29 avril 1991 présenté par le trésorier. Il vise également à réduire l'évasion fiscale en exigeant l'inscription et le cautionnement des importateurs, des exportateurs et des entrepreneurs de transports interterritoriaux de carburants et en prévoyant des amendes et des peines plus sévères en cas d'inobservation. Il permet aussi à ceux qui n'ont pas de terminal de devenir percepteurs s'ils sont inscrits séparément pour la coloration des carburants.

**ARTICLE 1** Les définitions découlent des modifications énoncées dans le projet de loi.

**ARTICLE 2** Cet article réunit les dispositions existantes sur l'assujettissement à la taxe qui se trouvent à l'article 4, y compris les modifications budgétaires contenues au paragraphe 4 (1) du projet de loi, mais augmente l'amende maximale pour avoir sciemment omis de payer la taxe.

**ARTICLE 3** Cet article précise l'obligation qu'ont les percepteurs, les importateurs, les grossistes et les détaillants de percevoir la taxe.

**ARTICLE 4—Paragraphe 1** Cette modification met en application la proposition contenue dans le budget de 1991 présenté par le trésorier, laquelle vise à augmenter la taxe sur le carburant incolore qui n'est pas utilisé dans du matériel de chemin de fer de 1,7 cent le 30 avril 1991, la faisant ainsi passer à 12,6 cents le litre, et à nouveau le 1<sup>er</sup> janvier 1992, la portant alors à 14,3 cents le litre. La taxe sur le carburant incolore utilisé dans du matériel de chemin de fer augmente de 0,55 cent le 30 avril 1991 et le 1<sup>er</sup> janvier 1992, atteignant ainsi 3,95 cents et 4,5 cents le litre respectivement. La disposition est adoptée de nouveau et deviendra le paragraphe 2 (1) de la Loi le 1<sup>er</sup> janvier 1992.

**Paragraphe 2** Les importateurs sont tenus de s'inscrire et n'ont pas besoin ensuite de payer la taxe à la frontière canadienne. Les obligations des importateurs inscrits sont précisées. Les exportateurs sont tenus de s'inscrire et leurs obligations sont précisées. Des dispositions visant à permettre la délivrance de permis d'acquisition de carburants aux consommateurs inscrits sont également incluses.

**ARTICLE 5** Ces dispositions visent à :

- a) exiger des transporteurs interterritoriaux qu'ils s'inscrivent ou qu'ils demandent un certificat d'inscription de voyage; à autoriser le ministre à remettre des vignettes d'inscription à poser sur les camions;
- b) à permettre aux percepteurs de faire une demande d'inscription comme agents de coloration de carburants avec des obligations précises.

**ARTICLE 6** Les véhicules automobiles peuvent être retenus pour vérifier que la Loi est observée. Les peines prévues en cas d'inobservation de la Loi sont augmentées.

**ARTICLE 7** L'article 6 de la Loi est modifié de sorte à obliger les vendeurs à remettre des factures aux acheteurs de carburants et à obliger ceux-ci à obtenir des factures. Quiconque ne se conforme pas à ces exigences commet une infraction.

**ARTICLE 8** Les personnes qui sont comprises dans les catégories énumérées doivent tenir des dossiers.

**ARTICLE 9** Les percepteurs, les importateurs inscrits, les exportateurs inscrits, les agents de coloration inscrits, les consommateurs inscrits et les transporteurs interterritoriaux inscrits doivent verser un cautionnement.

**ARTICLE 10** Les entrepreneurs de transports interterritoriaux doivent s'inscrire. Leurs obligations sont précisées. La saisie de carburant est autorisée auprès de ceux qui n'observent pas la Loi. L'aliénation du carburant est prévue si la pénalité n'est pas payée.

**ARTICLE 11** Le ministre est autorisé à refuser de désigner ou d'inscrire une personne et à annuler ou à suspendre la désignation ou l'inscription. Des audiences sont prévues.



**SECTION 12.** Section 10 of the Act, dealing with returns, is revised to include the listed categories, to provide for returns to be filed by agents, and to increase the penalties for non-compliance.

**SECTION 13.** Subsections 11 (1) and (3) of the Act are re-enacted to add to the listed categories. New subsection 11 (2) of the Act provides for payment of interest on untransmitted tax. New subsection 11 (4) of the Act provides for an offence for failure to pay over or remit tax.

**SECTION 14.** The amendment to subsection 12 (2) of the Act adds to the listed categories. The amendment is complementary to the other amendments in the Bill.

**SECTION 15.—Subsection 1.** Provision is made for the assessment of those who have failed to file returns or to remit tax with returns or whose returns understate their tax liability.

**Subsection 3.** The Minister is authorized to issue assessments against interjurisdictional carriers who fail to keep proper business records.

**SECTION 16.** Provision is made for the right to object to and to appeal penalties assessed or payable under the Act.

**SECTION 17.** The re-enactment of subsection 15 (1) of the Act is complementary to other amendments in the Bill.

**SECTION 18.** Section 18 of the Act relates to investigations. The amendments are complementary to other amendments in the Bill.

**SECTION 19.** Provision is made for the refund of tax paid on clear fuel used in off-road vehicles, for general refunds of overpaid tax, liability for erroneously paid refunds and penalties for mis-statement of material facts in an application for refund.

**SECTION 20.** The exchange of information is authorized with other Ontario Ministries. The reciprocal exchange of tax information with other jurisdictions is also provided for.

**SECTION 21.** An offence is created for making false returns, destroying or altering records, wilful evasion of tax or conspiracy.

**SECTION 22.** Provisions are added to the Act to make directors of a corporation jointly and severally liable for amounts of tax not collected or collected and not remitted that remains owing and unpaid by the corporation.

**SECTION 23.** Offences are provided where a person removes dye from coloured fuel or mixes coloured fuel with other fuel, and where an unauthorized person removes seals from tanks or sells coloured fuel along with clear fuel without proper separation. Penalties are provided where a person is in possession of fuel from which the dye has been removed or which was mixed with coloured fuel.

**SECTION 24.** New section 29 of the Act relates to the delivery of offence notices or summonses on the drivers of motor vehicles.

**SECTION 25.** Section 30 of the Act provides authority to make regulations.

The Bill amends only the English version of the *Fuel Tax Act, 1981*. The Legislature has not yet adopted an official French language version of this Act.

**ARTICLE 12** L'article 10 de la Loi, qui porte sur les déclarations, est modifié de sorte à inclure les catégories énumérées, à exiger la production d'une déclaration par un mandataire et à augmenter les peines en cas d'inobservation.

**ARTICLE 13** Les paragraphes 11 (1) et (3) de la Loi sont adoptés de nouveau pour augmenter le nombre de catégories énumérées. Le nouveau paragraphe 11 (2) prévoit le paiement d'intérêts sur la taxe non remise. Le nouveau paragraphe 11 (4) crée une infraction en cas de défaut de paiement ou de remise de la taxe.

**ARTICLE 14** La modification apportée au paragraphe 12 (2) de la Loi augmente le nombre de catégories énumérées. Cette modification découle des autres modifications contenues dans le projet de loi.

**ARTICLE 15—Paragraphe 1** Cette disposition prévoit l'établissement d'une cotisation à l'égard de ceux qui n'ont pas produit de déclaration, qui n'ont pas remis la taxe avec leur déclaration ou qui déclarent moins de taxe qu'ils ne doivent.

**Paragraphe 3** Le ministre est autorisé à délivrer des avis de cotisation aux transporteurs interterritoriaux qui ne tiennent pas des dossiers appropriés sur leurs opérations.

**ARTICLE 16** Cette disposition prévoit le droit de s'opposer aux pénalités établies ou payables aux termes de la Loi, ou d'en appeler.

**ARTICLE 17** La nouvelle adoption du paragraphe 15 (1) de la Loi découle d'autres modifications contenues dans le projet de loi.

**ARTICLE 18** L'article 18 de la Loi porte sur les enquêtes. Les modifications découlent des autres modifications contenues dans le projet de loi.

**ARTICLE 19** Cette disposition prévoit le remboursement de la taxe payée sur le carburant incolore utilisé dans les véhicules tout terrain, le remboursement général de la taxe payée en trop, l'obligation de payer les remboursements faits par erreur et une pénalité pour avoir présenté de façon inexacte des faits pertinents dans une demande de remboursement.

**ARTICLE 20** La communication de renseignements à d'autres ministères de l'Ontario et l'échange de renseignements fiscaux avec d'autres compétences sont autorisés.

**ARTICLE 21** Est créée une infraction en cas de fausse déclaration, de destruction ou de modification de dossiers, d'évasion fiscale délibérée ou de complot.

**ARTICLE 22** Des dispositions sont ajoutées à la Loi pour rendre les administrateurs d'une personne morale solidairement responsables de la taxe qui n'a pas été perçue, ou qui a été perçue mais n'a pas été remise, et que la personne morale doit toujours.

**ARTICLE 23** Commet une infraction quiconque enlève le colorant d'un carburant coloré ou mélange un carburant coloré avec un autre carburant, et la personne non autorisée qui enlève le sceau d'un réservoir ou vend du carburant coloré avec du carburant incolore sans distinction. Des pénalités sont prévues dans le cas d'une personne qui est en possession d'un carburant dont le colorant a été enlevé ou qui a été mélangé avec un carburant coloré.

**ARTICLE 24** Le nouvel article 29 de la Loi porte sur la délivrance d'avis d'infraction ou d'assignations aux conducteurs de véhicules automobiles.

**ARTICLE 25** L'article 30 de la Loi permet la prise de règlements.

Le projet de loi ne modifie que la version anglaise de la *Loi de 1981 de la taxe sur les carburants*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.





**An Act to amend the  
Fuel Tax Act, 1981**

**Loi portant modification de la Loi de  
1981 de la taxe sur les carburants**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (a) of the *Fuel Tax Act, 1981* is repealed and the following substituted:**

- (a) “broker driver” means a person who has entered into a written agreement to drive a motor vehicle and be responsible for the purchase of the fuel used to generate power in the motor vehicle on behalf of the operator of the motor vehicle if the operator is an interjurisdictional carrier;
- (aa) “bulk plant” means a storage facility, other than a terminal, that is capable of holding in storage fuel in bulk for subsequent sale or delivery to wholesalers, retail dealers or purchasers but from which fuel is not sold or delivered directly into a fuel tank.

**(2) Clause 1 (c) of the Act is repealed and the following substituted:**

- (c) “collector” means a person designated as a collector by the Minister under section 3.

**(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1985, chapter 23, section 1 and 1989, chapter 37, section 1, is further amended by adding the following clauses:**

- (ea) “debtor” means a person to whom a collector, importer, wholesaler or retail dealer has sold fuel;
- (eb) “driver” means the person having care and control of a motor vehicle whether the motor vehicle is in motion or not;
- (ga) “exporter” means a person who takes or causes to be taken out of Ontario fuel in bulk and who is accountable for the tax on the fuel to the jurisdiction into which the fuel is taken.

**(4) Clause 1 (h) of the Act is repealed and the following substituted:**

- (h) “fuel” means any gas or liquid that may be used for the purpose of generating power by internal combustion, and includes any substance added thereto, but does not include,

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

**1 (1) L’alinéa 1 (a) de la loi intitulée *Fuel Tax Act, 1981* («*Loi de 1981 de la taxe sur les carburants*») est abrogé et remplacé par ce qui suit :**

**(2) L’alinéa 1 (c) de la Loi est abrogé et remplacé par ce qui suit :**

**(3) L’article 1 de la Loi, tel qu’il est modifié par l’article 1 du chapitre 23 des Lois de l’Ontario de 1985 et par l’article 1 du chapitre 37 des Lois de l’Ontario de 1989, est modifié en outre par adjonction des alinéas suivants :**

**(4) L’alinéa 1 (h) de la Loi est abrogé et remplacé par ce qui suit :**

- (i) any product excluded from this Act by the regulations and to which subsection 2 (3) does not apply, or
- (ii) gasoline, aviation fuel or propane on which the tax imposed by the *Gasoline Tax Act* has been paid.

(5) Clause 1 (k) of the Act is repealed and the following substituted:

(5) L'alinéa 1 (k) de la Loi est abrogé et remplacé par ce qui suit :

- (k) "interjurisdictional carrier" means a person who engages in the commercial transportation of goods or passengers inside and outside Ontario and who operates for such purpose,
  - (i) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
  - (ii) one or more vessels under the *Canada Shipping Act*, or
  - (iii) railway equipment on rails in connection with and as part of a public transportation system;
- (ka) "interjurisdictional transporter" means the registered owner of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the owner or operator of a pipeline facility if the registered owner, owner or operator engages in the transportation or transfer of fuel in bulk and operates for that purpose,
  - (i) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
  - (ii) one or more vessels under the *Canada Shipping Act*,
  - (iii) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or
  - (iv) a pipeline facility inside and outside Ontario.

(6) Section 1 of the Act is further amended by adding the following clauses:

(6) L'article 1 de la Loi est modifié en outre par adjonction des alinéas suivants :

- (ma) "northern terminal" means a storage facility situated in Ontario north of 46 degrees north latitude, owned or operated by a collector, that is capable of holding middle distillate fuels in storage for subsequent sale by the collector, to which not less than 90 per cent by volume of its receipts of middle distillate fuels in any year are transported by rail tank car, each such tank car transporting not less than 70,000 litres of middle distillate fuels to the storage facility;
- (mb) "operator" means, when used with reference to a motor vehicle other than a motor vehicle designed for use as a vessel, an aircraft or railway equipment operated on rails,
  - (i) the registered owner, if the motor vehicle is not leased to another person or, if leased, is leased to another person for not more than thirty consecutive days,
  - (ii) the lessee, if the motor vehicle is leased for more than thirty consecutive days, unless the lessee has entered into a written agreement with the lessor under which the lessor agrees to account for and remit to the Treasurer the tax imposed by this Act on

all fuel used by the motor vehicle during the term of the lease, or

- (iii) the lessor, if the lessor has entered into a written agreement under which the lessor agrees to account for and remit to the Treasurer the tax imposed by this Act on fuel used by the motor vehicle during the term of the lease;

- (pa) "registered dyer" means a collector to whom a subsisting certificate of registration as a dyer has been issued under this Act;
- (pb) "registered exporter" means an exporter to whom a subsisting certificate of registration as an exporter has been issued under this Act;
- (pc) "registered importer" means an importer to whom a subsisting certificate of registration as an importer has been issued under this Act;
- (pd) "registered owner", in relation to a motor vehicle or trailer, means the person to whom a numbered permit for the motor vehicle or trailer has been issued under the *Highway Traffic Act* or would have been issued but for a reciprocal agreement between Ontario and another jurisdiction.

**(7) Clause 1 (u) of the Act is repealed and the following substituted:**

**(7) L'alinéa 1 (u) de la Loi est abrogé et remplacé par ce qui suit :**

- (u) "terminal" means a storage facility owned or operated by a collector that is capable of holding in storage for subsequent sale by the collector to which not less than 70 per cent by volume of its receipts of fuel in each calendar year are transported or transferred by vessel or pipeline.

**(8) Section 1 of the Act is further amended by adding the following clauses:**

**(8) L'article 1 de la Loi est modifié en outre par adjonction des alinéas suivants :**

- (w) "vessel" means a ship, boat, barge or other watercraft that is designed to move in or through water, but does not include an aircraft capable of operating on water or a vehicle moving on ice;
- (x) "wholesaler" means a person who sells fuel for the purpose of resale.

**(9) Section 1 of the Act is further amended by adding the following subsection:**

**(9) L'article 1 de la Loi est modifié en outre par adjonction du paragraphe suivant :**

Interjurisdictional transporter

- (2) If a registered owner referred to in clause (1) (ka) has leased a motor vehicle for more than thirty consecutive days, the clause shall be read, in respect of the registered owner and the motor vehicle, by substituting "lessee" for "registered owner".

**2. Section 2 of the Act is repealed and the following substituted:**

**2 L'article 2 de la Loi est abrogé et remplacé par ce qui suit :**

Tax on clear fuel

**2.—(1) Every purchaser shall pay to the Treasurer a tax at the rate of,**

- (a) 12.6 cents per litre on all clear fuel received or used by a purchaser in Ontario before the 1st day of January, 1992 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (b) 14.3 cents per litre on all clear fuel received or used by a purchaser in Ontario after the 31st day of December, 1991 to generate power in a motor vehicle other than railway



equipment operated on rails in connection with a public transportation system;

- (c) 3.95 cents per litre on all clear fuel received or used in Ontario before the 1st day of January, 1992 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system; and
- (d) 4.5 cents per litre on all clear fuel received or used in Ontario after the 31st day of December, 1991 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system.

Payment of  
tax

(2) Subject to subsection (3), the tax imposed by subsection (1) shall be paid to the Treasurer in accordance with section 11,

- (a) at the time the clear fuel is supplied to the purchaser;
- (b) if the clear fuel is acquired by the purchaser outside Ontario in the fuel tank of a motor vehicle, at the time the fuel is used in Ontario; or
- (c) if the clear fuel is imported into Ontario by an importer who is also a purchaser, at the prescribed time and in the prescribed manner.

Products  
used as clear  
fuel

(3) Every person is liable to pay to the Treasurer a tax at the rate imposed by this Act upon a purchaser of clear fuel in respect of,

- (a) a product excluded from this Act by the regulations, or a fuel that is not clear fuel, that the person places in the fuel tank of a motor vehicle to which a number plate is attached as required by the *Highway Traffic Act*; or
- (b) a fuel that is not clear fuel that the person uses for the propulsion of railway equipment operated on rails in connection with and as part of a public transportation system.

Remittance  
of tax

(4) Every person liable to tax under subsection (3) shall remit the tax forthwith to the Treasurer in the prescribed manner.

Additional  
liability

(5) The tax imposed by subsection (3) is in addition to any penalty imposed under this Act.

Prohibited  
use of  
coloured fuel

(6) No person shall place or cause to be placed any coloured fuel in the fuel tank of a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

Use of  
coloured fuel

(7) Coloured fuel may be used for any purpose prescribed by the Minister for the use of coloured fuel and for all purposes other than the generating of power in a motor vehicle referred to in subsection (6) or the propulsion of railway equipment operated on rails in connection with and as part of a public transportation system.

Amounts in  
lieu of tax

(8) Where any person selling fuel receives any payment made as or on account of the tax payable under this Act,

- (a) the payment shall be dealt with and accounted for as tax under this Act;
- (b) any person who fails to deal with and account for the payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act;
- (c) the Minister may collect and receive the payment by the same remedies and procedures as are provided by this Act and the regulations for the collection and enforcement of the tax payable under this Act; and

(d) for the purposes of the assessment and collection of the payment, the person receiving the payment as or in lieu of the tax payable under this Act is deemed to be a collector.

Offence

(9) Every person who knowingly fails to pay the tax imposed by subsection (1) or (3) when required to do so by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than double the amount of the tax that the person fails to pay.

Idem

(10) Every person who fails to comply with subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$500.

**3. Section 3 of the Act, as amended by the Statutes of Ontario, 1983, chapter 16, section 1, is repealed and the following substituted:**

**3 L'article 3 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 16 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :**

Designation of collector

**3.—(1)** The Minister may designate in writing as a collector a person whose sales of clear fuel at wholesale during the twelve-month period before the designation are not less than 51 per cent by volume of the person's total sales of clear fuel.

Conditions and limitations

(2) The Minister may attach such reasonable conditions and limitations to a designation as a collector as the Minister considers appropriate.

Termination of designation

(3) The Minister may terminate a person's designation as a collector at the end of any twelve-month period during which the person's sales of clear fuel at wholesale are less than 51 per cent by volume of the person's total sales of clear fuel.

Idem

(4) The Minister may terminate a person's designation as a collector if the person has not sold or delivered fuel for resale in Ontario for a period of six consecutive months.

Notice of termination

(5) The termination of a designation under subsection (3) or (4) is effective fourteen days after the date on which the Minister mails notice of the termination.

Collector is agent

(6) Every collector is an agent of the Minister for the purpose of collecting and remitting the tax imposed by this Act.

Agreements

(7) For the purpose of ensuring and facilitating collection of the tax under this Act, the Minister may enter into such arrangements and agreements with a collector as the Minister considers appropriate.

Collection of tax by collector

**3a.—(1)** Every collector shall collect the tax imposed by this Act from every person to whom the collector sells fuel.

Exception

(2) A collector shall not collect tax on the sale of fuel to another collector who is not a purchaser in respect of the fuel.

Remittance of tax

**3b.—(1)** Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collectable by the collector.

Idem

(2) Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax imposed by this Act on fuel in respect of which the collector is the purchaser.

Collection of tax by retail dealer

**3c.—(1)** A retail dealer who sells or delivers fuel to a purchaser shall collect from the purchaser the tax imposed by this Act.

Retail dealer is agent

(2) For the purposes of collecting the tax, the retail dealer is an agent of the Minister.

Payment over by retail dealer

**3d.—(1)** Every retail dealer shall pay over to the wholesaler, from whom the retail dealer has purchased fuel, the tax collected under this Act on the sale of the fuel by the retail dealer.

Collection by wholesaler	(2) Every wholesaler who sells fuel to a retail dealer shall collect from the retail dealer the tax collected under this Act on the sale of the fuel by the retail dealer.
Wholesaler is agent	(3) For the purposes of collecting the tax, the wholesaler is an agent of the Minister.
Exception	(4) Subsections (1) and (2) do not apply in respect of a retail dealer who is a collector or a registered importer.
Remittance of tax by wholesaler	<b>3e.</b> —(1) Every wholesaler who collects tax under section 3d shall pay the tax to the collector or registered importer from whom the wholesaler purchased the fuel.
Exception	(2) Subsection (1) does not apply to a wholesaler who is a collector or registered importer.
Tax held in trust	<b>3f.</b> —(1) Every wholesaler or retail dealer who collects tax in accordance with this Act is deemed to hold the tax in trust for Her Majesty in right of Ontario until the tax is paid over to a collector or importer.
Idem	(2) Every collector or importer who collects tax in accordance with this Act is deemed to hold the tax in trust for Her Majesty in right of Ontario until the tax is remitted to the Treasurer.
Eligibility as member of Legislative Assembly	<b>3g.</b> No person is ineligible as a member of the Legislative Assembly of Ontario by reason only of being a collector under this Act.
Assignment of book debts	<b>3h.</b> —(1) An assignment of book debts by a collector or registered importer does not include the portion of the book debts that the collector or importer as agent of the Minister charged as tax to the person to whom the collector or registered importer sold fuel.
Duty of assignee	(2) An assignee or other person who collects the book debts shall collect, remit and account under this Act and the regulations for the portion of the book debts mentioned in subsection (1).
Assignee deemed collector	(3) For the purposes of subsection (2), an assignee or other person who collects the book debts of the collector or registered importer shall be deemed to be a collector under this Act.
Interpretation	(4) For the purposes of this section, an assignment of book debts includes a specific or general assignment and any other disposition of the present or future right to collect book debts.
Offence	<b>3i.</b> —(1) Every collector, registered importer, wholesaler or retail dealer who refuses or neglects to collect tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine of an amount equal to 30 cents for each litre of fuel on which the collector, registered importer, wholesaler or retail dealer refused or neglected to collect tax.
Offence, coloured fuel	(2) Every collector or registered importer who sells, as coloured fuel, fuel to which dye has not been added in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

**4.**—(1) Subsection 4 (1) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 37, section 2, is repealed and the following substituted:

Tax on clear fuel

(1) Every purchaser shall pay to the Treasurer a tax at the rate of,

**4** (1) Le paragraphe 4 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 37 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :



- (a) 12.6 cents per litre on all clear fuel received or used by a purchaser in Ontario before the 1st day of January, 1992 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (b) 14.3 cents per litre on all clear fuel received or used by a purchaser in Ontario after the 31st day of December, 1991 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (c) 3.95 cents per litre on all clear fuel received or used in Ontario before the 1st day of January, 1992 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system; and
- (d) 4.5 cents per litre on all clear fuel received or used in Ontario after the 31st day of December, 1991 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system.

(2) Subsection 4 (1) of the Act, as re-enacted by subsection (1), subsections 4 (3) to 4 (7) of the Act, subsection 4 (8) and (9) of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, sections 77 and 86, and subsections 4 (10) and (11) of the Act are repealed and the following substituted:

(2) Le paragraphe 4 (1) de la Loi, tel qu'il est adopté de nouveau par le paragraphe (1), les paragraphes 4 (3) à 4 (7) de la Loi, les paragraphes 4 (8) et (9) de la Loi, tels qu'ils sont modifiés par les articles 77 et 86 du chapitre 72 des Lois de l'Ontario de 1989, et les paragraphes 4 (10) et (11) de la Loi sont abrogés et remplacés par ce qui suit :

Registered importer

**4.—(1)** No person shall bring or cause to be brought into Ontario fuel in bulk unless the person is registered by the Minister as an importer.

Application of subs. (1)

- (2) Subsection (1) does not apply to,
- (a) an importer who has remitted security in respect of the tax imposed by this Act (subsection 11 (7)) and filed a return (subsection 11 (9)) in respect of the fuel imported; or
  - (b) an importer of clear fuel that was coloured in accordance with the regulations at the time of entry into Ontario.

Exemption

(3) A registered importer is exempt from the application of subsection 11 (7) (remittance of security) and subsection 11 (9) (delivery of return).

Application

(4) Subject to section 9, every person who imports fuel in bulk into Ontario is entitled to be registered as an importer and to be issued a certificate of registration upon application in the prescribed form.

Offence, unregistered importer

(5) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax payable under section 2 on the fuel brought into Ontario by the person.

Offence, condition or limitation

(6) Every registered importer who contravenes a condition or limitation attached to the certificate of registration issued to the registered importer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.

Export of fuel

**4a.—(1)** No person shall take or cause to be taken out of Ontario fuel in bulk unless the person is registered by the Minister as an exporter.

Application

(2) Subject to section 9, every person who proposes to take or cause to be taken out of Ontario fuel in bulk is entitled to be



registered as an exporter and to be issued a certificate of registration upon application in the prescribed form.

Conditions  
and limita-  
tions

**4b.**—(1) The Minister may attach such reasonable conditions and limitations to a registration as an importer or exporter as the Minister considers appropriate.

Application  
of subs. (1)

(2) Subsection (1) applies in respect of a proposed registration and in respect of an existing registration.

Collection of  
tax by  
importer

**4c.**—(1) Every registered importer shall collect the tax imposed by this Act from every person to whom the registered importer sells clear fuel.

Remittance  
to Treasurer

(2) Every registered importer shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collectable by the registered importer.

Payment to  
Treasurer

(3) Every registered importer shall pay to the Treasurer the tax imposed by this Act upon the registered importer as a purchaser.

Exception

(4) Subsection (1) does not apply to require a registered importer to collect the tax from a collector in respect of clear fuel if the collector is not a purchaser of the clear fuel.

Registered  
importer is  
agent

(5) For the purposes of collecting the tax imposed by this Act, every registered importer is an agent of the Minister.

Importer  
deemed  
registered

(6) Every importer who has complied with subsection 11 (7) shall be deemed to be a registered importer for the purpose of collecting the tax payable on the clear fuel that was imported into Ontario from outside Canada.

Notice of  
change,  
importer or  
exporter

**4d.**—(1) Every person who is an importer or exporter shall notify the Minister in writing of,

- (a) any change in the name of the importer or exporter;
- (b) any change in the business address of the importer or exporter;
- (c) any change in the nature of the business of the importer or exporter; or
- (d) the termination of the business of the importer or exporter.

Transmittal

(2) The notice required by subsection (1) shall be transmitted to the Minister forthwith upon the happening of the change or termination.

Importing  
for use as  
other than  
clear fuel

**4e.**—(1) No person shall import clear fuel into Ontario for use as other than clear fuel.

Exception

(2) Subsection (1) does not apply if the clear fuel is coloured in the prescribed manner before it is sold or transferred by the person to an importer, wholesaler, retail dealer or purchaser.

Certificate to  
be carried

**4f.**—(1) Every driver of a motor vehicle operated by or on behalf of an interjurisdictional transporter who is a registered importer or a registered exporter shall carry the original or a notarial copy of the certificate of registration issued to the registered importer or registered exporter and shall surrender the certificate or notarial copy upon demand by a person who is a member of a class prescribed for the purposes of this section.

Delivery of  
copy to  
interjurisdic-  
tional trans-  
porter

(2) A registered importer or a registered exporter shall provide to each interjurisdictional transporter that the registered importer or registered exporter engages to transport fuel a notarial copy of the certificate of registration issued under this Act to the registered importer or registered exporter.

Security by  
interjurisdic-  
tional trans-  
porter

**4g.**—(1) Every interjurisdictional transporter who transports clear fuel into Ontario on behalf of an importer shall remit on behalf of the importer the security, tax and return required by subsections 11 (7) and (9), and, for the purposes of those subsections, the interjurisdictional transporter shall be deemed to be the importer.

Exception

(2) Subsection (1) does not apply if the importer is a registered importer and has delivered to the interjurisdictional transporter a notarial copy of the certificate of registration issued to the importer under this Act.

Export of  
fuel

**4h.**—(1) Every exporter shall transmit to the Minister the information prescribed by the Minister, in the form and manner prescribed by the Minister, in respect of fuel in bulk that the exporter intends to take or cause to be taken out of Ontario.

Return re  
exported fuel

(2) Every exporter shall transmit to the Minister the prescribed information, in the prescribed form and manner, in respect of fuel in bulk that the exporter delivers or causes to be delivered to a person outside Ontario.

Evidence of  
export and  
delivery

(3) Every exporter who delivers or causes to be delivered fuel in bulk to a person outside Ontario shall provide to the Minister evidence that the fuel has been taken out of Ontario and of the delivery of the fuel outside Ontario.

Penalty

(4) Every exporter who fails to comply with subsection (1), (2) or (3) shall pay to the Treasurer a penalty equal to the amount of tax that would be payable under this Act in respect of the fuel if the fuel were a clear fuel sold to be used by a purchaser in Ontario to generate power in a motor vehicle.

Payment of  
penalty

(5) The penalty under subsection (4) is payable when it is assessed.

Offence,  
unregistered  
exporter

**4i.** Every person who contravenes subsection 4a (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 in respect of the fuel if the fuel were clear fuel sold to be used by a purchaser in Ontario to generate power in a motor vehicle.

Offence,  
exporter

**4j.** Every exporter who contravenes a condition or limitation attached to the exporter's registration by the Minister is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000.

Registered  
consumer

**4k.**—(1) A registered consumer may pay the tax imposed by this Act in accordance with the terms of the fuel acquisition permit issued to the registered consumer instead of making payment to a collector at the time of purchase.

Application  
for registra-  
tion

(2) Subject to section 9, every person who will be acquiring fuel principally to be disposed of or consumed in the manner prescribed for the purposes of this subsection is entitled to be issued a fuel acquisition permit upon application in the prescribed form.

Conditions  
and limita-  
tions

(3) The Minister may attach such reasonable conditions and limitations to a fuel acquisition permit as the Minister considers appropriate.

Application  
of subs. (3)

(4) Subsection (3) applies in respect of a proposed fuel acquisition permit and in respect of an existing fuel acquisition permit.

Offence,  
registered  
consumer

**4L.** Every registered consumer who contravenes a condition or limitation of the fuel acquisition permit issued to the registered consumer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.

**5.—(1) The Act is amended by adding the following sections:**

**5 (1) La Loi est modifiée par adjonction des articles suivants :**

Interjurisdictional carrier

**4m.—(1)** No person shall act as an interjurisdictional carrier of a class prescribed for the purposes of this subsection unless the person is registered by the Minister.

Trip registration

(2) Every interjurisdictional carrier who is not required to be registered under subsection (1) shall apply for an Ontario trip registration certificate as specified in the regulations.

Application

(3) Subject to section 9, every person who proposes to act as an interjurisdictional carrier of a prescribed class is entitled to be registered as such and to be issued a certificate of registration or an Ontario trip registration certificate, as the case may be, upon application in the prescribed form and payment of the prescribed fees.

Registration decals

(4) Every interjurisdictional carrier who is a member of a class prescribed for the purposes of subsection (1) and who is registered by the Minister is entitled to be issued registration decals in the prescribed form by the Minister upon application in the prescribed form and payment of the prescribed fees.

Conditions and limitations

(5) The Minister may attach such reasonable conditions and limitations to the registration of an interjurisdictional carrier as the Minister considers appropriate.

Application of subs. (5)

(6) Subsection (5) applies in respect of a proposed registration and in respect of an existing registration of an interjurisdictional carrier.

Notice of change, interjurisdictional carrier

**4n.—(1)** Every person who is an interjurisdictional carrier shall notify the Minister in writing of,

- (a) any change in the name of the interjurisdictional carrier;
- (b) any change in the business address of the interjurisdictional carrier;
- (c) any change in the nature of the business of the interjurisdictional carrier; or
- (d) the termination of the business of the interjurisdictional carrier.

Transmittal

(2) The notice required by subsection (1) shall be given to the Minister forthwith upon the happening of the change or termination.

Communication re refund to broker driver

**4o.** The Minister may communicate with, furnish to or receive from an interjurisdictional carrier or a broker driver any information necessary to ascertain whether any tax imposed by this Act is refundable to the broker driver.

Offence, interjurisdictional carrier

**4p.—(1)** Every person who contravenes subsection 4m (1) (interjurisdictional carrier) or 4m (2) (trip registration) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$2,000 plus a fine in an amount equal to the amount of the tax that should have been paid or remitted by the interjurisdictional carrier.

Idem, condition or limitation

(2) Every interjurisdictional carrier who contravenes a condition or limitation attached to the registration of the interjurisdictional carrier under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$2,000.

Idem, registration decal

(3) Every operator of a motor vehicle to which a valid registration decal is not affixed when so required under this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.



(2) The Act is further amended by adding the following sections:

(2) La Loi est modifiée en outre par adjonction des articles suivants :

Registered  
dyer

**4q.**—(1) No person shall colour fuel unless the person is registered by the Minister as a dyer.

Application

(2) Subject to section 9, every collector who proposes to colour fuel is entitled to be registered as a dyer and to be issued a certificate of registration upon application in the prescribed form if the collector,

(a) owns or operates a terminal or northern terminal that the Minister has specified and the collector uses as a dye-point; and

(b) has total sales of coloured fuel from all dye-points owned or operated by the collector equal to or in excess of the prescribed percentage of the collector's total sales of coloured fuel during the calendar year before the person's application for registration.

Cancellation  
of registra-  
tion

(3) The Minister may cancel a person's registration as a dyer at the end of any twelve-month period during which the person's total sales of coloured fuel from all dye-points owned or operated by the person are less than the prescribed percentage of the person's total sales of coloured fuel.

Conditions  
and limita-  
tions

(4) The Minister may attach such reasonable conditions and limitations to a registration as a dyer as the Minister considers appropriate.

Application  
of subs. (4)

(5) Subsection (4) applies in respect of a proposed registration and in respect of an existing registration.

Dye-points

**4r.**—(1) The Minister may specify the number and location of dye-points that a registered dyer may establish and operate.

Dye held in  
trust

(2) Every registered dyer who possesses dye is deemed to hold the dye in trust for Her Majesty in right of Ontario for use in accordance with this Act and the regulations and is accountable for all dye at the time and in the manner provided by this Act and the regulations.

Notification

(3) Every registered dyer shall forthwith notify the Minister in writing of all changes in the name or nature of the registered dyer's business or of the termination of the business.

Use of dye

(4) Every registered dyer shall use only dye provided by the Minister in such manner, with such equipment and through such methods and procedures as are prescribed by the Minister to colour fuel.

Equipment  
testing

(5) In order to ensure compliance with this Act and the regulations, any person authorized for the purpose by the Minister may shut down and test any equipment used for the dyeing, storing, transporting or delivery of coloured fuel.

Offence

**4s.**—(1) Every registered dyer who refuses or neglects to dye fuel in accordance with the requirements prescribed by the Minister is guilty of an offence and on conviction is liable to a fine of not less than \$50,000 and not more than \$1,000,000.

Offence,  
unregistered  
dyer

(2) Every person who operates as a dyer of fuel without holding a subsisting certificate of registration as a dyer under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 had the fuel sold by the person during the period the person did not hold the certificate of registration been clear fuel sold to a purchaser in Ontario.



Offence,  
condition or  
limitation

(3) Every registered dyer who contravenes a condition or limitation in the certificate of registration issued to the registered dyer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.

**6. Subsection 5 (1), and subsections 5 (2) and (3), as amended by the Statutes of Ontario, 1989, chapter 72, section 86, of the Act are repealed and the following substituted:**

Detention  
and exami-  
nation of  
motor  
vehicle

- (1) For the purpose of ascertaining,
  - (a) whether tax imposed by this Act has been paid on clear fuel contained in the fuel tank of a motor vehicle or whether the fuel tank contains coloured fuel;
  - (b) whether any tax imposed by this Act is payable on such fuel; and
  - (c) whether the operator of a motor vehicle is an interjurisdictional carrier whose motor vehicle carries a valid registration decal or is required to carry such a registration decal under the regulations,

any person authorized for the purpose by the Minister may, without a warrant, if the person has reasonable and probable grounds to believe that the motor vehicle contains evidence of a contravention of this Act, stop and detain any motor vehicle in Ontario, may examine the motor vehicle and fuel in any fuel tank thereof, take samples of the fuel and inspect any registration decal on the motor vehicle and may also examine the documents in the custody of the driver related to liability for tax under this Act, the ownership of the motor vehicle and the operator of the motor vehicle and may also examine the driver's licence required under the *Highway Traffic Act*.

Offence

(2) Every driver of a motor vehicle that may be stopped and detained under subsection (1) who,

- (a) fails to comply with a stop sign set up by a person authorized by the Minister to examine any motor vehicle;
- (b) fails to obey a lawful signal or request by a person authorized by the Minister to examine any motor vehicle;
- (c) drives a motor vehicle to which a valid registration decal is not affixed as required under the regulations;
- (d) refuses to permit the detention or examination of the motor vehicle that is under his or her control; or
- (e) refuses to permit samples of fuel to be taken from any fuel tank of the motor vehicle that is under his or her control,

is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

Offence

(3) Every driver of a motor vehicle that is found to contain coloured fuel in a fuel tank of the motor vehicle is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

**7. Section 6 of the Act is repealed and the following substituted:**

Invoice

**6.—**(1) Every vendor shall inform every person to whom the vendor sells fuel in bulk of the total price of the fuel and shall deliver to the person an invoice containing the information prescribed by the Minister.

Liability for  
tax

(2) Every person who purchases fuel in bulk from a vendor without obtaining a properly completed invoice that the vendor is

**6 Le paragraphe 5 (1) de la Loi et les paragraphes 5 (2) et (3), tels qu'ils sont modifiés par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, sont abrogés et remplacés par ce qui suit :**

**7 L'article 6 de la Loi est abrogé et remplacé par ce qui suit :**

required to deliver under subsection (1) remains liable for any tax collectable or payable under this Act until the tax is actually paid over to a collector or to the Treasurer by the vendor, although the vendor is an agent of the Minister.

Idem

(3) Every person shall obtain from the vendor from whom the person purchases fuel, other than fuel in bulk, the total price of the fuel and an invoice containing the information prescribed by the Minister.

Offence

(4) Every person who fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

**8. The Act is further amended by adding the following section:**

**8 La Loi est modifiée en outre par adjonction de l'article suivant :**

Records

**6a.**—(1) Every collector, importer, exporter, registered consumer, interjurisdictional carrier, interjurisdictional transporter, wholesale dealer or retail dealer shall keep at that person's principal place of business records and books of account in such form and containing such information as will permit the accurate determination of the taxes collectable or payable under this Act.

Retention period

(2) Every person referred to in subsection (1) shall retain the records and books of account, as well as any other documents necessary to verify the information in the records and books of account, for a period of seven years following the end of the fiscal period to which the records and books of account relate, unless written permission for their disposal is received from the Minister.

Requirement

(3) The Minister may require a person who fails to comply with subsection (1) to keep such records and books of account as are specified by the Minister for such length of time as the Minister requires.

Offence

(4) Every person who fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default occurs or continues.

**9. Section 7 of the Act is repealed and the following substituted:**

**9 L'article 7 de la Loi est abrogé et remplacé par ce qui suit :**

Information

**7.**—(1) The Minister may demand information or additional information from a person for the purpose of evaluating the suitability of the person to be a collector, registered importer, registered exporter, registered dyer, registered consumer, interjurisdictional transporter or interjurisdictional carrier under this Act or to ascertain the amount of security to be furnished by the person in accordance with subsection (2) and the person shall deliver to the Minister the information or additional information the Minister requires within the time specified in the Minister's demand.

Security

(2) The Minister shall demand security in a form acceptable to the Minister from,

(a) every collector, in an amount not less than the equivalent of an average three months tax collectable and payable by the collector calculated for the twelve-month period preceding the date of the Minister's demand or \$1,000,000, whichever is greater;

(b) every registered importer, in an amount equal to the average three months tax collectable and payable by the importer calculated for the twelve-month period preceding the date of the Minister's demand or \$500,000, whichever is greater;

- (c) every registered exporter, in an amount specified by the Minister upon the forwarding to the Minister of information required under this Act or the regulations in respect of fuel intended to be taken or to be caused to be taken out of Ontario;
- (d) every registered dyer, in an amount equal to the greater of \$1,000,000 or the average three months tax that would be collectable and payable by the registered dyer calculated on the basis of the twelve-month period preceding the Minister's demand if the clear fuel acquired by the registered dyer for the purpose of colouring or for any other purpose were sold to a consumer in Ontario during the twelve-month period;
- (e) every registered consumer, in an amount equal to the tax that would otherwise have been payable by the registered consumer, if the registered consumer were not a registered consumer, on the average three months receipts of clear fuel calculated for the twelve-month period immediately preceding the date of the Minister's demand or \$100,000, whichever is the greater; and
- (f) every registered interjurisdictional carrier, in an amount not less than the equivalent of the average three months tax payable by the registered interjurisdictional carrier calculated for the twelve-month period immediately preceding the date of the Minister's demand.

Idem

(3) Every person shall, upon receipt of a demand under subsection (2), forthwith furnish the security to the Minister.

Idem

(4) The Minister may, at any time, increase or decrease the amount of security furnished or to be furnished under subsection (2).

**10. Section 8 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, sections 77 and 86, is repealed and the following substituted:**

**10 L'article 8 de la Loi, tel qu'il est modifié par les articles 77 et 86 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Interjurisdictional transporter

**8.—(1)** No person shall act as an interjurisdictional transporter unless the person is registered by the Minister as an interjurisdictional transporter.

Application

(2) Subject to section 9, every person who acts or proposes to act as an interjurisdictional transporter is entitled to be registered as an interjurisdictional transporter and to be issued a certificate of registration upon application in the prescribed form.

Conditions and limitations

(3) The Minister may attach such reasonable conditions and limitations to a registration as an interjurisdictional transporter as the Minister considers appropriate.

Application of subs. (3)

(4) Subsection (3) applies in respect of a proposed registration and in respect of an existing registration.

Uniform manifest form

(5) Every interjurisdictional transporter shall complete a uniform manifest form in the form provided by the Minister in respect of every shipment of fuel in bulk transported or transferred by the interjurisdictional transporter into or out of Ontario.

Transporter to obtain certificate

(6) Before undertaking to transport or transfer fuel in bulk into or out of Ontario for a registered importer or a registered exporter, the interjurisdictional transporter shall obtain the notarial copy of the registration certificate that the registered importer or registered exporter is required to provide under this Act.

Possession of documents

(7) Every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle or of the master of the



vessel in which the interjurisdictional transporter is transporting or transferring fuel in bulk,

- (a) the interjurisdictional transporter's certificate of registration issued under this Act;
- (b) the completed uniform manifest form required by subsection (5);
- (c) if the fuel in bulk is being transported or transferred from a registered importer or a registered exporter, the notarial copy of the certificate of registration that the registered importer or registered exporter is required to provide under this Act; and
- (d) evidence of payment, if any, made under subsection 11 (7) or of the proper colouration of the fuel.

Detention of  
vehicles

(8) Any person who is authorized for the purpose by the Minister and who has reasonable and probable grounds to believe that an interjurisdictional transporter does not hold a certificate of registration or is transporting or transferring fuel on behalf of an importer or exporter who does not hold a certificate of registration issued under this Act may, without a warrant, stop and detain any vehicle or vessel operated in Ontario by the interjurisdictional transporter and require production of the documents specified in subsection (7).

Seizure, etc.,  
of fuel

(9) If, following a detention under subsection (8), the driver of the motor vehicle or the master of the vessel fails to produce the documents specified in subsection (7), the person authorized for the purpose by the Minister may, without a warrant but subject to subsections (10), (11), (12) and (14), seize, impound, hold and dispose of the fuel, unless the interjurisdictional transporter complies with subsection (11).

No seizure,  
etc.

(10) Fuel is not subject to holding, seizure, impounding or disposal under this section if the driver of the motor vehicle or the master of the vessel in which the fuel is transported or transferred provides proof satisfactory to the person authorized for the purpose by the Minister,

- (a) of the quantity and the destination of the fuel being transported or transferred;
- (b) that the driver or master holds a certificate of registration or a notarial copy of a certificate of registration of the interjurisdictional transporter issued under this Act;
- (c) if the fuel is being transported or transferred for an importer or exporter, that the importer or exporter holds a valid certificate of registration issued under this Act;
- (d) if tax or security is payable in respect of the fuel being transported or transferred, that the tax or security has been paid; and
- (e) if the fuel being transported or transferred is not clear fuel, that the fuel has been coloured in accordance with this Act and the regulations.

Forfeiture

(11) Fuel seized under subsection (9) is forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the fuel is seized, or the owner of the fuel, pays to the Treasurer an amount, as a penalty, equal to the tax that would be payable under clause 2 (1) (a) if the fuel were clear fuel sold to a purchaser in Ontario.

Application

(12) The driver of the motor vehicle or the master of the vessel from which fuel is seized under this section, or the owner of



the fuel, may bring an application in the Ontario Court (General Division) to establish the right to possession of the fuel.

Time limit (13) An application under subsection (12) is not valid unless made within thirty days after the date on which the fuel is seized.

Standards (14) For the purposes of an application to the Ontario Court (General Division), the driver, the master or the owner has the right to possession of the fuel if, when the fuel is seized,

- (a) the driver or the master holds a certificate of registration or a notarial copy of a certificate of registration of the interjurisdictional transporter issued under this section;
- (b) the fuel is being transported or transferred on behalf of an exporter who holds a certificate of registration issued under this Act;
- (c) if the fuel is clear fuel being imported into Ontario, the tax or security payable under this Act has been paid or the driver, the master or the owner has complied with the regulations with respect to the importation of clear fuel for colouration; and
- (d) if the driver or the master does not hold a uniform manifest form completed in accordance with this Act and the regulations, the driver or owner delivers the form so completed to the Minister within five days of the date when the fuel is seized.

Order (15) The court, if satisfied that the driver, the master or the owner has the right to possession of the fuel, may order that the fuel be returned to the driver, the master or owner or that the proceeds of sale of the fuel be paid to the owner.

Disposal pending final disposition (16) If the application is not finally disposed of within sixty days after the date on which it is made, the Minister may dispose of the fuel and retain the proceeds of the sale pending final disposition of the application.

Forfeiture of fuel (17) If the application is dismissed and any appeal is dismissed or the time for appeal has expired, the fuel is forfeited to Her Majesty in right of Ontario to be disposed of as the Minister directs.

Proceeds of sale (18) If a sale of fuel is directed under subsection (11) or (17), or if the proceeds of a sale are retained under subsection (16) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the fuel and after payment of the penalty owing under subsection (11) shall be paid to the person from whom the fuel was seized or to the person who owned the fuel before it was forfeited.

Offence (19) Every interjurisdictional transporter transporting or transferring fuel in bulk into or out of Ontario who fails to produce any of the documents required to be kept in the possession of the driver or the master under subsection (7) is guilty of an offence and on conviction is liable to a fine of not less than \$150 and not more than \$1,000 for each document not produced.

**11. Section 9 of the Act is repealed and the following substituted:**

**11 L'article 9 de la Loi est abrogé et remplacé par ce qui suit :**

Refusal to designate or register

**9.—(1)** The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person fails to satisfy the Minister that the person has the ability to perform the conditions or observe the limitations that the Minister proposes to attach to the designation, registration or permit.

Idem	(2) The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person fails to furnish security in accordance with section 7.
Suspension or cancellation	(3) The Minister may suspend or cancel the designation of, permit issued to, or registration of any person under this Act if the person contravenes or permits the contravention of any provision of this Act or the regulations or a condition or limitation attached to the designation, permit or registration.
Hearing	(4) If the Minister proposes to act under subsection (1), (2) or (3), the Minister shall afford the person the opportunity to appear before the Minister to show cause why the Minister should not so act.
Immediate suspension	(5) Despite subsection (4), the Minister may suspend forthwith the designation of, permit issued to, or registration of any person under this Act if the person fails to deliver a return required by this Act or the regulations or fails to remit tax collectable or payable by the person under this Act.
Notice of suspension	(6) A suspension forthwith shall be by notice in writing with written reasons, and shall state that the person may, by notice in writing served on the Minister within 180 days after service of the notice of suspension, require a hearing by the Minister to determine whether the suspension should be rescinded, rescinded subject to conditions, or whether the designation, permit or registration should be cancelled, and the person may so require the hearing.
Service of notice	(7) A notice under this section may be served personally or by registered mail addressed to the person to whom notice is to be given at the person's last known address.
Idem	(8) Service by registered mail of a notice under this section shall be deemed to have been made on the fifth day after the day of mailing unless the person establishes that, though acting in good faith, the person did not receive the notice or did not receive it until a later date.
Conviction for fraud or tax evasion	(9) The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person or an officer, director, shareholder or partner of the person has been convicted of the offence of fraud or tax evasion within five years of the date of the application for the designation, registration or permit, and subsection (4) does not apply in respect of the refusal.

**12.—(1) Subsections 10 (1), (2) and (3) of the Act are repealed and the following substituted:**

**12 (1) Les paragraphes 10 (1), (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :**

Returns	<p>(1) Every person who is a collector, registered importer, registered exporter, registered dyer, interjurisdictional carrier, interjurisdictional transporter or registered consumer shall deliver to the Minister such return as the Minister requires for the purposes of this Act,</p> <p>(a) at the prescribed time and in the prescribed manner; and</p> <p>(b) on or before the date designated in a notice or demand by the Minister, if the Minister serves or causes to be served a notice or demand, either personally or by registered mail, upon the person.</p>
Verification of returns	<p>(2) Every return required under subsection (1) shall be verified by the certificate of the person referred to in subsection (1) delivering the return or, if not an individual, of the president, resident manager or representative in Ontario of the person that the financial and other statements of information included in or attached to the return are in agreement with the records of the</p>

person and contain correctly and completely all information for the period covered by the return.

Penalty

(3) Every person who fails to deliver a return as required by subsection (1) shall pay a penalty of not less than \$300 plus not more than 25 per cent of the tax payable and 25 per cent of the tax collectable by the person, whether or not the failure to file a return was caused by a person acting as an agent under subsection (7).

(2) Section 10 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 86, is further amended by adding the following subsections:

(2) L'article 10 de la Loi, tel qu'il est modifié par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des paragraphes suivants :

Compliance  
by agent

(7) Compliance with subsections (1) and (2) may be carried out by a person with whom the person referred to in subsection (1) has entered into a written agreement under which the first person is authorized to act as an agent to prepare and deliver to the Minister the return required by subsection (1), but this subsection applies only if the first person has been granted and exercises power of attorney to verify the return in the manner required by subsection (2) for the period the agreement is in force.

Penalty

(8) Every person referred to in subsection (1) who fails to remit the amount of the tax collectable or the tax payable, as the case may be, by the person with the person's return shall pay a penalty, when assessed therefor, of an amount equal to 25 per cent of the tax that was collectable or that was payable by the person for the period covered by the return.

**13.—(1) Subsections 11 (1) and (2) of the Act are repealed and the following substituted:**

**13 (1) Les paragraphes 11 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :**

Transmission  
of tax

(1) Every registered importer, registered consumer or interjurisdictional carrier shall transmit with the return required by section 10 the amount of the tax payable or the amount of the tax payable and collectable, as the case may be, by the registered importer, registered consumer or interjurisdictional carrier.

Interest

(2) A person who is a collector, importer or interjurisdictional carrier and who transmits less than the amount of tax payable or the amount of tax payable and collectable by the person shall pay to the Treasurer interest at the prescribed rate upon the deficiency from the date of default until the date of transmission of the deficiency to the Treasurer whether or not the amount transmitted was transmitted with a return prepared and delivered to the Minister in accordance with subsection 10 (7).

(2) Subsection 11 (3) of the Act is amended by striking out "registered consumer" wherever it occurs.

(2) Le paragraphe 11 (3) de la Loi est modifié par suppression de «registered consumer» partout où il figure.

(3) Subsection 11 (4) of the Act is repealed and the following substituted:

(3) Le paragraphe 11 (4) de la Loi est abrogé et remplacé par ce qui suit :

Offence

(4) Every person who is required to pay over to a collector or importer or to remit to the Treasurer the tax imposed by this Act and who fails to pay over or to remit the tax collected by the person is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to 25 per cent of the tax and not more than an amount equal to double the amount of the tax collected and not paid over or remitted.

(4) Subsections 11 (5) and (6) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 37, section 3, are repealed.

(4) Les paragraphes 11 (5) et (6) de la Loi, tels qu'ils sont adoptés de nouveau par l'arti-



(5) Subsection 11 (7) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 37, section 3, is repealed and the following substituted:

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a registered importer shall remit to the Treasurer,

(a) an amount as security equal to the tax under this Act that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and

(b) the tax payable by the importer under section 2.

**14.** Subsection 12 (2) of the Act is amended by inserting after "carrier" in the third line and in the seventh line in each case "registered dyer, exporter, interjurisdictional transporter".

**15.—(1)** Subsection 13 (1) of the Act is repealed and the following substituted:

Notice of  
assessment

(1) If a person fails to make a return or a remittance as required under this Act or if the person's returns are not substantiated by the person's records, the Minister may make an assessment of the amount of tax collected by the person as agent for the Minister or the tax payable by the person, for which the person has not accounted, and the amount shall be deemed to be the tax collected or the tax payable, as the case may be.

(2) Subsection 13 (6) of the Act is amended by inserting after "entitled" in the fourth line "and interest thereon at the prescribed rate from the date of payment of the erroneous refund".

(3) Section 13 of the Act is amended by adding the following subsection:

Notice of  
assessment

(12) The Minister may, at any time the Minister considers reasonable, assess an interjurisdictional carrier, who has failed or refused to maintain adequate books of account for the purposes of subsection 12 (3), the tax payable under this Act by the interjurisdictional carrier and, for the purpose of ascertaining the amount of the tax to be assessed, the person's interjurisdictional vehicles or fleet of interjurisdictional vehicles shall be deemed to have travelled a distance equal to 1.6 kilometres for each litre of fuel consumed by the vehicles or fleet of vehicles.

**16.—(1)** Subsection 14 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 3, is repealed and the following substituted:

Notice of  
objection

(1) A person who objects to an assessment or statement of disallowance under section 13, or to a penalty paid or assessed under this Act, may, within 180 days from the service of the notice of assessment or statement of disallowance, or the payment of the penalty under subsection 8 (11), serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) Subsection 14 (4) of the Act is repealed and the following substituted:

Reconsider-  
ation

(4) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the assessment, statement of dis-

cle 3 du chapitre 37 des Lois de l'Ontario de 1989, sont abrogés.

(5) Le paragraphe 11 (7) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 37 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

**14** Le paragraphe 12 (2) de la Loi est modifié par insertion, après «carrier» aux troisième et septième lignes, de «registered dyer, exporter, interjurisdictional transporter».

**15** (1) Le paragraphe 13 (1) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 13 (6) de la Loi est modifié par insertion, après «entitled» à la quatrième ligne, de «and interest thereon at the prescribed rate from the date of payment of the erroneous refund».

(3) L'article 13 de la Loi est modifié par adjonction du paragraphe suivant :

**16** (1) Le paragraphe 14 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 23 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 14 (4) de la Loi est abrogé et remplacé par ce qui suit :



allowance or penalty objected to and vacate, confirm or vary the assessment, statement of disallowance or penalty and reassess or serve a fresh statement of disallowance, and the Minister shall notify the person making the objection of the action by the Minister by letter, either sent by registered mail to, or personally served on, the person.

(3) Subsection 14 (5) of the Act is amended by striking out "or statement of disallowance" in the fourth line and substituting "statement of disallowance or penalty".

(4) Subsection 14 (13) of the Act is amended by inserting after "tax" in the second line "or penalty".

17. Subsection 15 (1) of the Act is repealed and the following substituted:

Certificate to  
prove  
amount of  
tax

(1) The Deputy Minister of Revenue shall determine the amount of the tax referred to in subsections 2 (8), 2 (9), 3i (1), 3i (2) and 4 (5), section 4i, subsections 4p (1), 4s (2) and 11 (4) and section 27 from such information as is available to the Deputy Minister and shall issue a certificate as to the amount, and such a certificate that is signed or that purports to be signed by the Deputy Minister and that states the amount of tax that should have been collected or paid or that would be payable under section 2 is proof, in the absence of evidence to the contrary, of the amount of the tax and of the authority of the person who issued the certificate without proof of appointment or signature.

18.—(1) Clause 18 (1) (c) of the Act is amended by striking out "registered consumer" in the second line and substituting "exporter".

(2) Clause 18 (1) (d) of the Act is repealed.

(3) Subsection 18 (2) of the Act is amended by inserting after "consumer" in the fifth line "exporter, interjurisdictional transporter".

19.—(1) Subsection 21 (1) of the Act is amended by striking out "or, coloured fuel on which the tax was paid in error" in the second and third lines.

(2) Subsections 21 (2) and (3) of the Act are repealed and the following substituted:

Idem

(2) The Minister may refund the tax paid on clear fuel purchased if the fuel was used to operate,

(a) a road-building machine as defined in section 1 of the *Highway Traffic Act*; or

(b) auxiliary equipment of a motor vehicle, the power from which equipment is not used for the propulsion of a motor vehicle on a highway, and if the motor vehicle to which the equipment is auxiliary is not principally used by its owner or operator for the transportation of passengers, whether or not for hire, or for the pleasure or recreation of the owner or operator.

Application  
for refund

(3) A refund under this Act shall not be made unless an application therefor, accompanied by properly receipted invoices, is received by the Minister within three years of the date when the tax, a refund of which is sought, was paid and it is established to

(3) Le paragraphe 14 (5) de la Loi est modifié par substitution, à «or statement of disallowance» à la quatrième ligne, de «statement of disallowance or penalty».

(4) Le paragraphe 14 (13) de la Loi est modifié par insertion, après «tax» à la deuxième ligne, de «or penalty».

17 Le paragraphe 15 (1) de la Loi est abrogé et remplacé par ce qui suit :

18 (1) L'alinéa 18 (1) (c) de la Loi est modifié par substitution, à «registered consumer» à la deuxième ligne, de «exporter».

(2) L'alinéa 18 (1) (d) de la Loi est abrogé.

(3) Le paragraphe 18 (2) de la Loi est modifié par insertion, après «consumer» à la cinquième ligne, de «exporter, interjurisdictional transporter».

19 (1) Le paragraphe 21 (1) de la Loi est modifié par suppression de «or, coloured fuel on which the tax was paid in error» aux deuxième et troisième lignes.

(2) Les paragraphes 21 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

the satisfaction of the Minister that the applicant is entitled to the refund claimed.

Idem

(4) Every invoice submitted with an application for a refund under this Act shall clearly indicate, in addition to the information required to be shown on an invoice under subsection 6 (1) or (2), the date of payment of the tax, and no refund shall be paid where the applicant has misrepresented a material fact in respect of any invoice.

Penalty

(5) If an applicant for a refund under this Act has misrepresented a material fact on or in connection with an application for a refund, in a return where an amount was retained by the applicant under subsection 11 (3) or in an invoice supporting the application or return, the Minister may, in addition to denying all or any part of the refund claimed through the use of the application or return, impose a penalty of not more than an amount equal to the refund denied.

Refund

(6) If a person has transmitted to the Treasurer an amount in excess of the tax collectable or payable by the person under this Act, the excess shall be refunded to the person upon application therefor made within three years of the date of payment of the excess amount and, subject to subsection 13 (11) and subsection (7), if, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 14, it is established that the person assessed or reassessed or the appellant, as the case may be, has overpaid tax, the amount of the overpayment shall be refunded to the person.

Deemed tax

(7) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax under this Act owing to Her Majesty in right of Ontario, and the proceedings under this Act relating to collection of tax apply with necessary modifications to the amount.

**20.—(1) Subsection 22 (4) of the Act is repealed and the following substituted:**

**20 (1) Le paragraphe 22 (4) de la Loi est abrogé et remplacé par ce qui suit :**

Communica-  
tion

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal  
communica-  
tion

(4a) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of infor-  
mation

(4b) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

**(2) Subsection 22 (6) of the Act is repealed and the following substituted:**

**(2) Le paragraphe 22 (6) de la Loi est abrogé et remplacé par ce qui suit :**



## Information

(6) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) information, records or things obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

**21. Section 25 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 77, is repealed and the following substituted:**

Offence,  
false state-  
ments

**25.—(1)** Every person is guilty of an offence who,

- (a) makes, participates in, assents to, or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of the records or books of account of a purchaser, importer, exporter, collector, registered consumer, interjurisdictional carrier or transporter;
- (c) makes, assents to or acquiesces in the making of false or deceptive entries or omits, assents to or acquiesces in the omission, to enter a material particular in records or books of a person referred to in clause (b);
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspires with another person to commit an offence described in clause (a), (b), (c) or (d).

## Penalty

(2) Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine of not less than an amount equal to the amount of the tax that should have been declared to be collectable or payable or that is sought to be evaded and not more than triple the amount of the tax, or to imprisonment for a term of not more than two years, or to both.

**22. The Act is further amended by adding the following section:**

## Directors

**25a.—(1)** If a corporation has failed to collect tax under this Act, has collected tax and failed to remit the tax or has failed to pay any interest or penalty related thereto, the directors of the corporation at the time the corporation is required to collect or remit the taxes or to pay the interest or penalty related thereto, are jointly and severally liable, together with the corporation, to pay such amounts.

## Exception

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 17 (1) (b) and the warrant has been returned by the sheriff unsatisfactory in whole or in part; or
- (b) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*

**21 L'article 25 de la Loi, tel qu'il est modifié par l'article 77 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

**22 La Loi est modifiée en outre par adjonction de l'article suivant :**

(Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

Prudent  
director

(3) A director of a corporation is not liable for a failure described in subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would exercise in comparable circumstances.

Assessment

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with necessary modifications.

Time limit

(5) An assessment under subsection (4) shall not be made more than two years after the person last ceased to be a director of the corporation.

Execution

(6) If execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Idem

(7) If a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Ontario would be entitled to had the amount not been so paid and, where a warrant of execution has been issued under clause 17 (1) (b), the director is entitled to the assignment of the warrant of execution to the extent of the director's payment, and the Minister may make the assignment.

Allocation  
by Minister

(8) For the purpose of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and to any liability for tax payable under this Act including any penalty and interest relating thereto.

**23. Section 26 of the Act is repealed and the following substituted:**

**23 L'article 26 de la Loi est abrogé et remplacé par ce qui suit :**

Offence

**26.—(1)** Any person who,

- (a) destroys or removes, in any manner, the dye or any component of the dye in any coloured fuel;
- (b) attempts, in any manner, to destroy or remove the dye or any component of the dye in any coloured fuel; or
- (c) mixes or combines coloured fuel with any other type or grade of fuel,

is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both.

Penalty

(2) Any dealer who possesses fuel in bulk from which the dye or a component of the dye has been removed or destroyed, or who possesses coloured fuel that has been mixed or combined with any other type or grade of fuel, shall pay a penalty, when assessed therefor, equal to three times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

Subsequent  
penalty

(3) In addition to any penalty assessed under subsection (2), a dealer against whom an assessment has been issued under subsection (2) who possesses fuel in bulk from which the dye or a component of the dye has been removed or destroyed, or who possesses fuel that has been mixed or combined with any other



type or grade of fuel, shall pay a penalty, when assessed therefor, equal to ten times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

Offence,  
seals or  
labels

(4) Any person who, without the prior written permission of the Minister, removes, breaks or alters a seal or identifying label affixed in accordance with this Act or the regulations to any tank, drum or machine is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$100,000.

Offence,  
stock  
coloured fuel  
and clear  
fuel

(5) Any person who stocks coloured fuel on premises where clear fuel is sold to purchasers is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$100,000.

Saving

(6) A person is not liable to prosecution under subsection (5) if the coloured fuel is contained in a separate tank or cistern and the pump delivering the fuel from that separate tank or cistern is clearly marked to indicate that coloured fuel is being delivered.

**24. Section 29 of the Act is repealed and the following substituted:**

**24 L'article 29 de la Loi est abrogé et remplacé par ce qui suit :**

Service of  
offence  
notice or  
summons

**29.** In respect of an offence under this Act that involves a motor vehicle, delivery of an offence notice or summons to the driver of the vehicle shall be deemed to be service on the operator of the vehicle for the purposes of Part I of the *Provincial Offences Act*, unless, at the time of the offence, the vehicle was in the possession of the driver without the operator's consent.

**25.—(1) Clause 30 (1) (i) of the Act is repealed and the following substituted:**

**25 (1) L'alinéa 30 (1) (i) de la Loi est abrogé et remplacé par ce qui suit :**

(i) prescribing a system of compensation to reimburse registered dyers for a part or all of their costs incurred in colouring fuel, fixing the rate or rates of compensation to be paid to registered dyers per litre of fuel coloured, and providing for the maximum amount of compensation to registered dyers and for the method by which the compensation may be paid.

**(2) Clause 30 (2) (h) of the Act is amended by striking out "subsection 2 (2)" in the first line and substituting "subsection 4k (2)".**

**(2) L'alinéa 30 (2) (h) de la Loi est modifié par substitution, à «subsection 2 (2)» à la première ligne, de «subsection 4k (2)».**

**(3) Clause 30 (2) (i) of the Act is repealed and the following substituted:**

**(3) L'alinéa 30 (2) (i) de la Loi est abrogé et remplacé par ce qui suit :**

(i) prescribing conditions and restrictions that shall apply in respect of interjurisdictional carriers, interjurisdictional transporters, registered dyers, registered importers, registered exporters and registered consumers, and the method of paying the tax imposed by this Act to be followed by all interjurisdictional carriers.

**(4) Clause 30 (2) (j) of the Act is repealed and the following substituted:**

**(4) L'alinéa 30 (2) (j) de la Loi est abrogé et remplacé par ce qui suit :**

(j) governing the issuance and use of registration decals and prescribing fees therefor.

**(5) Clause 30 (2) (k) of the Act is repealed and the following substituted:**

**(5) L'alinéa 30 (2) (k) de la Loi est abrogé et remplacé par ce qui suit :**

(k) prescribing the method of collecting and paying or transmitting the tax imposed by this Act to be followed by collectors, registered importers and interjurisdictional carriers.

**(6) Clause 30 (2) (l) of the Act is repealed and the following substituted:**

**(6) L'alinéa 30 (2) (l) de la Loi est abrogé et remplacé par ce qui suit :**

- (l) prescribing the processes which a registered dyer shall use to colour and dispense coloured fuel, the time and manner of accounting for dye by a registered dyer and the use that may be made of dye by any other person.

(7) Clause 30 (2) (o) of the Act is amended by striking out “collectors” in the first line and substituting “registered dyers”.

(7) L’alinéa 30 (2) (o) de la Loi est modifié par substitution, à «collectors» à la première ligne, de «registered dyers».

(8) Clause 30 (2) (q) of the Act is repealed and the following substituted:

(8) L’alinéa 30 (2) (q) de la Loi est abrogé et remplacé par ce qui suit :

- (q) prescribing anything referred to in this Act as prescribed by the Minister.

(9) Clause 30 (2) (r) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 16, section 2, is repealed and the following substituted:

(9) L’alinéa 30 (2) (r) de la Loi, tel qu’il est adopté par l’article 2 du chapitre 16 des Lois de l’Ontario de 1983, est abrogé et remplacé par ce qui suit :

- (r) prescribing classes of interjurisdictional carriers whose members are required to each hold a certificate of registration and classes of interjurisdictional carriers whose members are required to each apply for an Ontario trip registration certificate under section 4m.

(10) Subsection 30 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 16, section 2 and 1985, chapter 23, section 6, is further amended by adding the following clauses:

(10) Le paragraphe 30 (2) de la Loi, tel qu’il est modifié par l’article 2 du chapitre 16 des Lois de l’Ontario de 1983 et par l’article 6 du chapitre 23 des Lois de l’Ontario de 1985, est modifié en outre par adjonction des alinéas suivants :

- (b) prescribing the percentage of a collector’s total sales of coloured fuel for each calendar year during which the collector’s certificate as a registered dyer remains in force for the purposes of clause 1 (1) (pa);
- (c) prescribing information to be provided by exporters and the form and manner in which such information is to be provided for the purposes of section 4h;
- (u) prescribing information to be included on invoices for the purposes of section 6.

**26.—(1)** Except as provided in subsections (2) and (3), this Act comes into force on the 1st day of January, 1992.

**26** (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le 1<sup>er</sup> janvier 1992. Entrée en vigueur

(2) Subsection 4 (1) shall be deemed to have come into force on the 30th day of April, 1991.

(2) Le paragraphe 4 (1) est réputé être entré en vigueur le 30 avril 1991. Idem

(3) Subsection 5 (2) comes into force on the 1st day of April, 1992.

(3) Le paragraphe 5 (2) entre en vigueur le 1<sup>er</sup> avril 1992. Idem

**27.** The short title of this Act is the *Fuel Tax Amendment Act, 1991*.

**27** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur les carburants*. Titre abrégé

Commence-  
ment

Idem

Idem

Short title









Bill 85

Projet de loi 85

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 85

(Chapter 49  
Statutes of Ontario, 1991)

### An Act to amend the Fuel Tax Act, 1981

**The Hon. S. Wark-Martyn**  
Minister of Revenue

1st Reading	April 29th, 1991
2nd Reading	December 2nd, 1991
3rd Reading	December 19th, 1991
Royal Assent	December 19th, 1991

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## Projet de loi 85

(Chapitre 49  
Lois de l'Ontario de 1991)

### Loi portant modification de la Loi de 1981 de la taxe sur les carburants

**L'honorable S. Wark-Martyn**  
Ministre du Revenu



1 <sup>re</sup> lecture	29 avril 1991
2 <sup>e</sup> lecture	2 décembre 1991
3 <sup>e</sup> lecture	19 décembre 1991
sanction royale	19 décembre 1991

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**An Act to amend the  
Fuel Tax Act, 1981**

**Loi portant modification de la Loi de  
1981 de la taxe sur les carburants**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (a) of the *Fuel Tax Act, 1981* is repealed and the following substituted:**

- (a) “broker driver” means a person who has entered into a written agreement to drive a motor vehicle and be responsible for the purchase of the fuel used to generate power in the motor vehicle on behalf of the operator of the motor vehicle if the operator is an interjurisdictional carrier;
- (aa) “bulk plant” means a storage facility, other than a terminal, that is capable of holding in storage fuel in bulk for subsequent sale or delivery to wholesalers, retail dealers or purchasers but from which fuel is not sold or delivered directly into a fuel tank.

**(2) Clause 1 (c) of the Act is repealed and the following substituted:**

- (c) “collector” means a person designated as a collector by the Minister under section 3.

**(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1985, chapter 23, section 1 and 1989, chapter 37, section 1, is further amended by adding the following clauses:**

- (ea) “debtor” means a person to whom a collector, importer, wholesaler or retail dealer has sold fuel;
- (eb) “driver” means the person having care and control of a motor vehicle whether the motor vehicle is in motion or not;
- (ga) “exporter” means a person who takes or causes to be taken out of Ontario fuel in bulk and who is accountable for the tax on the fuel to the jurisdiction into which the fuel is taken.

**(4) Clause 1 (h) of the Act is repealed and the following substituted:**

- (h) “fuel” means any gas or liquid that may be used for the purpose of generating power by internal combustion, and includes any substance added thereto, but does not include,

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

**1 (1) L’alinéa 1 (a) de la loi intitulée *Fuel Tax Act, 1981* («*Loi de 1981 de la taxe sur les carburants*») est abrogé et remplacé par ce qui suit :**

**(2) L’alinéa 1 (c) de la Loi est abrogé et remplacé par ce qui suit :**

**(3) L’article 1 de la Loi, tel qu’il est modifié par l’article 1 du chapitre 23 des Lois de l’Ontario de 1985 et par l’article 1 du chapitre 37 des Lois de l’Ontario de 1989, est modifié en outre par adjonction des alinéas suivants :**

**(4) L’alinéa 1 (h) de la Loi est abrogé et remplacé par ce qui suit :**



- (i) any product excluded from this Act by the regulations and to which subsection 2 (3) does not apply, or
- (ii) gasoline, aviation fuel or propane on which the tax imposed by the *Gasoline Tax Act* has been paid.

**(5) Clause 1 (k) of the Act is repealed and the following substituted:**

**(5) L'alinéa 1 (k) de la Loi est abrogé et remplacé par ce qui suit :**

- (k) "interjurisdictional carrier" means a person who engages in the commercial transportation of goods or passengers inside and outside Ontario and who operates for such purpose,
  - (i) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
  - (ii) one or more vessels under the *Canada Shipping Act*, or
  - (iii) railway equipment on rails in connection with and as part of a public transportation system;
- (ka) "interjurisdictional transporter" means the registered owner of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the owner or operator of a pipeline facility if the registered owner, owner or operator engages in the transportation or transfer of fuel in bulk and operates for that purpose,
  - (i) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
  - (ii) one or more vessels under the *Canada Shipping Act*,
  - (iii) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or
  - (iv) a pipeline facility inside and outside Ontario.

**(6) Section 1 of the Act is further amended by adding the following clauses:**

**(6) L'article 1 de la Loi est modifié en outre par adjonction des alinéas suivants :**

- (ma) "northern terminal" means a storage facility situated in Ontario north of 46 degrees north latitude, owned or operated by a collector, that is capable of holding middle distillate fuels in storage for subsequent sale by the collector, to which not less than 90 per cent by volume of its receipts of middle distillate fuels in any year are transported by rail tank car, each such tank car transporting not less than 70,000 litres of middle distillate fuels to the storage facility;
- (mb) "operator" means, when used with reference to a motor vehicle other than a motor vehicle designed for use as a vessel, an aircraft or railway equipment operated on rails,
  - (i) the registered owner, if the motor vehicle is not leased to another person or, if leased, is leased to another person for not more than thirty consecutive days,
  - (ii) the lessee, if the motor vehicle is leased for more than thirty consecutive days, unless the lessee has entered into a written agreement with the lessor under which the lessor agrees to account for and remit to the Treasurer the tax imposed by this Act on

all fuel used by the motor vehicle during the term of the lease, or

- (iii) the lessor, if the lessor has entered into a written agreement under which the lessor agrees to account for and remit to the Treasurer the tax imposed by this Act on fuel used by the motor vehicle during the term of the lease;

- (pa) “registered dyer” means a collector to whom a subsisting certificate of registration as a dyer has been issued under this Act;
- (pb) “registered exporter” means an exporter to whom a subsisting certificate of registration as an exporter has been issued under this Act;
- (pc) “registered importer” means an importer to whom a subsisting certificate of registration as an importer has been issued under this Act;
- (pd) “registered owner”, in relation to a motor vehicle or trailer, means the person to whom a numbered permit for the motor vehicle or trailer has been issued under the *Highway Traffic Act* or would have been issued but for a reciprocal agreement between Ontario and another jurisdiction.

**(7) Clause 1 (u) of the Act is repealed and the following substituted:**

**(7) L’alinéa 1 (u) de la Loi est abrogé et remplacé par ce qui suit :**

- (u) “terminal” means a storage facility owned or operated by a collector that is capable of holding in storage fuel in bulk for subsequent sale by the collector to which not less than 70 per cent by volume of its receipts of fuel in each calendar year are transported or transferred by vessel or pipeline.

**(8) Section 1 of the Act is further amended by adding the following clauses:**

**(8) L’article 1 de la Loi est modifié en outre par adjonction des alinéas suivants :**

- (w) “vessel” means a ship, boat, barge or other watercraft that is designed to move in or through water, but does not include an aircraft capable of operating on water or a vehicle moving on ice;
- (x) “wholesaler” means a person who sells fuel for the purpose of resale.

**(9) Section 1 of the Act is further amended by adding the following subsection:**

**(9) L’article 1 de la Loi est modifié en outre par adjonction du paragraphe suivant :**

Interjurisdictional transporter

- (2) If a registered owner referred to in clause (1) (pd) has leased a motor vehicle for more than thirty consecutive days, the clause shall be read, in respect of the registered owner and the motor vehicle, by substituting “lessee” for “registered owner”.

**2. Section 2 of the Act is repealed and the following substituted:**

**2 L’article 2 de la Loi est abrogé et remplacé par ce qui suit :**

Tax on clear fuel

**2.—(1)** Every purchaser shall pay to the Treasurer a tax at the rate of,

- (a) 12.6 cents per litre on all clear fuel received or used by a purchaser in Ontario before the 1st day of January, 1992 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (b) 14.3 cents per litre on all clear fuel received or used by a purchaser in Ontario after the 31st day of December, 1991

to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;

- (c) 3.95 cents per litre on all clear fuel received or used in Ontario before the 1st day of January, 1992 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system; and
- (d) 4.5 cents per litre on all clear fuel received or used in Ontario after the 31st day of December, 1991 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system.

Payment of  
tax

- (2) Subject to subsection (3), the tax imposed by subsection (1) shall be paid to the Treasurer in accordance with section 11,
  - (a) at the time the clear fuel is supplied to the purchaser;
  - (b) if the clear fuel is acquired by the purchaser outside Ontario in the fuel tank of a motor vehicle, at the time the fuel is used in Ontario; or
  - (c) if the clear fuel is imported into Ontario by an importer who is also a purchaser, at the prescribed time and in the prescribed manner.

Products  
used as clear  
fuel

- (3) Every person is liable to pay to the Treasurer a tax at the rate imposed by this Act upon a purchaser of clear fuel in respect of,
  - (a) a product excluded from this Act by the regulations, or a fuel that is not clear fuel, that the person places in the fuel tank of a motor vehicle to which a number plate is attached as required by the *Highway Traffic Act*; or
  - (b) a fuel that is not clear fuel that the person uses for the propulsion of railway equipment operated on rails in connection with and as part of a public transportation system.

Remittance  
of tax

- (4) Every person liable to tax under subsection (3) shall remit the tax forthwith to the Treasurer in the prescribed manner.

Additional  
liability

- (5) The tax imposed by subsection (3) is in addition to any penalty imposed under this Act.

Prohibited  
use of  
coloured fuel

- (6) No person shall place or cause to be placed any coloured fuel in the fuel tank of a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

Use of  
coloured fuel

- (7) Coloured fuel may be used for any purpose prescribed by the Minister for the use of coloured fuel and for all purposes other than the generating of power in a motor vehicle referred to in subsection (6) or the propulsion of railway equipment operated on rails in connection with and as part of a public transportation system.

Amounts in  
lieu of tax

- (8) Where any person selling fuel receives any payment made as or on account of the tax payable under this Act,
  - (a) the payment shall be dealt with and accounted for as tax under this Act;
  - (b) any person who fails to deal with and account for the payment in accordance with this Act and the regulations is liable to the same penalties and fines, and is guilty of the same offences, as would apply if the payment were the tax payable under this Act;
  - (c) the Minister may collect and receive the payment by the same remedies and procedures as are provided by this Act and the regulations for the collection and enforcement of the tax payable under this Act; and



(d) for the purposes of the assessment and collection of the payment, the person receiving the payment as or in lieu of the tax payable under this Act is deemed to be a collector.

Offence

(9) Every person who knowingly fails to pay the tax imposed by subsection (1) or (3) when required to do so by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than double the amount of the tax that the person fails to pay.

Idem

(10) Every person who fails to comply with subsection (2) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$500.

**3. Section 3 of the Act, as amended by the Statutes of Ontario, 1983, chapter 16, section 1, is repealed and the following substituted:**

**3 L'article 3 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 16 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :**

Designation of collector

**3.—(1)** The Minister may designate in writing as a collector a person whose sales of clear fuel at wholesale during the twelve-month period before the designation are not less than 51 per cent by volume of the person's total sales of clear fuel.

Conditions and limitations

(2) The Minister may attach such reasonable conditions and limitations to a designation as a collector as the Minister considers appropriate.

Termination of designation

(3) The Minister may terminate a person's designation as a collector at the end of any twelve-month period during which the person's sales of clear fuel at wholesale are less than 51 per cent by volume of the person's total sales of clear fuel.

Idem

(4) The Minister may terminate a person's designation as a collector if the person has not sold or delivered fuel for resale in Ontario for a period of six consecutive months.

Notice of termination

(5) The termination of a designation under subsection (3) or (4) is effective fourteen days after the date on which the Minister mails notice of the termination.

Collector is agent

(6) Every collector is an agent of the Minister for the purpose of collecting and remitting the tax imposed by this Act.

Agreements

(7) For the purpose of ensuring and facilitating collection of the tax under this Act, the Minister may enter into such arrangements and agreements with a collector as the Minister considers appropriate.

Collection of tax by collector

**3a.—(1)** Every collector shall collect the tax imposed by this Act from every person to whom the collector sells fuel.

Exception

(2) A collector shall not collect tax on the sale of fuel to another collector who is not a purchaser in respect of the fuel.

Remittance of tax

**3b.—(1)** Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collectable by the collector.

Idem

(2) Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax imposed by this Act on fuel in respect of which the collector is the purchaser.

Collection of tax by retail dealer

**3c.—(1)** A retail dealer who sells or delivers fuel to a purchaser shall collect from the purchaser the tax imposed by this Act.

Retail dealer is agent

(2) For the purposes of collecting the tax, the retail dealer is an agent of the Minister.

Payment over by retail dealer

**3d.—(1)** Every retail dealer shall pay over to the wholesaler, from whom the retail dealer has purchased fuel, the tax collected under this Act on the sale of the fuel by the retail dealer.



Collection by wholesaler	(2) Every wholesaler who sells fuel to a retail dealer shall collect from the retail dealer the tax collected under this Act on the sale of the fuel by the retail dealer.
Wholesaler is agent	(3) For the purposes of collecting the tax, the wholesaler is an agent of the Minister.
Exception	(4) Subsections (1) and (2) do not apply in respect of a retail dealer who is a collector or a registered importer.
Remittance of tax by wholesaler	<b>3e.</b> —(1) Every wholesaler who collects tax under section 3d shall pay the tax to the collector or registered importer from whom the wholesaler purchased the fuel.
Exception	(2) Subsection (1) does not apply to a wholesaler who is a collector or registered importer.
Tax held in trust	<b>3f.</b> —(1) Every wholesaler or retail dealer who collects tax in accordance with this Act is deemed to hold the tax in trust for Her Majesty in right of Ontario until the tax is paid over to a collector or importer.
Idem	(2) Every collector or importer who collects tax in accordance with this Act is deemed to hold the tax in trust for Her Majesty in right of Ontario until the tax is remitted to the Treasurer.
Eligibility as member of Legislative Assembly	<b>3g.</b> No person is ineligible as a member of the Legislative Assembly of Ontario by reason only of being a collector under this Act.
Assignment of book debts	<b>3h.</b> —(1) An assignment of book debts by a collector or registered importer does not include the portion of the book debts that the collector or importer as agent of the Minister charged as tax to the person to whom the collector or registered importer sold fuel.
Duty of assignee	(2) An assignee or other person who collects the book debts shall collect, remit and account under this Act and the regulations for the portion of the book debts mentioned in subsection (1).
Assignee deemed collector	(3) For the purposes of subsection (2), an assignee or other person who collects the book debts of the collector or registered importer shall be deemed to be a collector under this Act.
Interpretation	(4) For the purposes of this section, an assignment of book debts includes a specific or general assignment and any other disposition of the present or future right to collect book debts.
Offence	<b>3i.</b> —(1) Every collector, registered importer, wholesaler or retail dealer who refuses or neglects to collect tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine of an amount equal to 30 cents for each litre of fuel on which the collector, registered importer, wholesaler or retail dealer refused or neglected to collect tax.
Offence, coloured fuel	(2) Every collector or registered importer who sells, as coloured fuel, fuel to which dye has not been added in accordance with the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

**4.**—(1) Subsection 4 (1) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 37, section 2, is repealed and the following substituted:

Tax on clear fuel

(1) Every purchaser shall pay to the Treasurer a tax at the rate of,

**4** (1) Le paragraphe 4 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 37 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

- (a) 12.6 cents per litre on all clear fuel received or used by a purchaser in Ontario before the 1st day of January, 1992 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (b) 14.3 cents per litre on all clear fuel received or used by a purchaser in Ontario after the 31st day of December, 1991 to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system;
- (c) 3.95 cents per litre on all clear fuel received or used in Ontario before the 1st day of January, 1992 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system; and
- (d) 4.5 cents per litre on all clear fuel received or used in Ontario after the 31st day of December, 1991 to propel railway equipment on rails if the equipment is operated in connection with a public transportation system.

(2) Subsection 4 (1) of the Act, as re-enacted by subsection (1), subsections 4 (3) to 4 (7) of the Act, subsection 4 (8) and (9) of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, sections 77 and 86, and subsections 4 (10) and (11) of the Act are repealed and the following substituted:

(2) Le paragraphe 4 (1) de la Loi, tel qu'il est adopté de nouveau par le paragraphe (1), les paragraphes 4 (3) à 4 (7) de la Loi, les paragraphes 4 (8) et (9) de la Loi, tels qu'ils sont modifiés par les articles 77 et 86 du chapitre 72 des Lois de l'Ontario de 1989, et les paragraphes 4 (10) et (11) de la Loi sont abrogés et remplacés par ce qui suit :

Registered importer	<b>4.—(1)</b> No person shall bring or cause to be brought into Ontario fuel in bulk unless the person is registered by the Minister as an importer.
Application of subs. (1)	(2) Subsection (1) does not apply to, <ul style="list-style-type: none"> <li>(a) an importer who has remitted security in respect of the tax imposed by this Act (subsection 11 (7)) and filed a return (subsection 11 (9)) in respect of the fuel imported; or</li> <li>(b) an importer of clear fuel that was coloured in accordance with the regulations at the time of entry into Ontario.</li> </ul>
Exemption	(3) A registered importer is exempt from the application of subsection 11 (7) (remittance of security) and subsection 11 (9) (delivery of return).
Application	(4) Subject to section 9, every person who imports fuel in bulk into Ontario is entitled to be registered as an importer and to be issued a certificate of registration upon application in the prescribed form.
Offence, unregistered importer	(5) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax payable under section 2 on the fuel brought into Ontario by the person.
Offence, condition or limitation	(6) Every registered importer who contravenes a condition or limitation attached to the certificate of registration issued to the registered importer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.
Export of fuel	<b>4a.—(1)</b> No person shall take or cause to be taken out of Ontario fuel in bulk unless the person is registered by the Minister as an exporter.
Application	(2) Subject to section 9, every person who proposes to take or cause to be taken out of Ontario fuel in bulk is entitled to be

registered as an exporter and to be issued a certificate of registration upon application in the prescribed form.

Conditions  
and limita-  
tions

**4b.**—(1) The Minister may attach such reasonable conditions and limitations to a registration as an importer or exporter as the Minister considers appropriate.

Application  
of subs. (1)

(2) Subsection (1) applies in respect of a proposed registration and in respect of an existing registration.

Collection of  
tax by  
importer

**4c.**—(1) Every registered importer shall collect the tax imposed by this Act from every person to whom the registered importer sells clear fuel.

Remittance  
to Treasurer

(2) Every registered importer shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collectable by the registered importer.

Payment to  
Treasurer

(3) Every registered importer shall pay to the Treasurer the tax imposed by this Act upon the registered importer as a purchaser.

Exception

(4) Subsection (1) does not apply to require a registered importer to collect the tax from a collector in respect of clear fuel if the collector is not a purchaser of the clear fuel.

Registered  
importer is  
agent

(5) For the purposes of collecting the tax imposed by this Act, every registered importer is an agent of the Minister.

Importer  
deemed  
registered

(6) Every importer who has complied with subsection 11 (7) shall be deemed to be a registered importer for the purpose of collecting the tax payable on the clear fuel that was imported into Ontario from outside Canada.

Notice of  
change.  
importer or  
exporter

**4d.**—(1) Every person who is an importer or exporter shall notify the Minister in writing of,

- (a) any change in the name of the importer or exporter;
- (b) any change in the business address of the importer or exporter;
- (c) any change in the nature of the business of the importer or exporter; or
- (d) the termination of the business of the importer or exporter.

Transmittal

(2) The notice required by subsection (1) shall be transmitted to the Minister forthwith upon the happening of the change or termination.

Importing  
for use as  
other than  
clear fuel

**4e.**—(1) No person shall import clear fuel into Ontario for use as other than clear fuel.

Exception

(2) Subsection (1) does not apply if the clear fuel is coloured in the prescribed manner before it is sold or transferred by the person to an importer, wholesaler, retail dealer or purchaser.

Certificate to  
be carried

**4f.**—(1) Every driver of a motor vehicle operated by or on behalf of an interjurisdictional transporter who is a registered importer or a registered exporter shall carry the original or a notarial copy of the certificate of registration issued to the registered importer or registered exporter and shall surrender the certificate or notarial copy upon demand by a person who is a member of a class prescribed for the purposes of this section.

Delivery of  
copy to  
interjurisdic-  
tional trans-  
porter

(2) A registered importer or a registered exporter shall provide to each interjurisdictional transporter that the registered importer or registered exporter engages to transport fuel a notarial copy of the certificate of registration issued under this Act to the registered importer or registered exporter.



Security by interjurisdictional transporter	<b>4g.</b> —(1) Every interjurisdictional transporter who transports clear fuel into Ontario on behalf of an importer shall remit on behalf of the importer the security, tax and return required by subsections 11 (7) and (9), and, for the purposes of those subsections, the interjurisdictional transporter shall be deemed to be the importer.
Exception	(2) Subsection (1) does not apply if the importer is a registered importer and has delivered to the interjurisdictional transporter a notarial copy of the certificate of registration issued to the importer under this Act.
Export of fuel	<b>4h.</b> —(1) Every exporter shall transmit to the Minister the information prescribed by the Minister, in the form and manner prescribed by the Minister, in respect of fuel in bulk that the exporter intends to take or cause to be taken out of Ontario.
Return re exported fuel	(2) Every exporter shall transmit to the Minister the prescribed information, in the prescribed form and manner, in respect of fuel in bulk that the exporter delivers or causes to be delivered to a person outside Ontario.
Evidence of export and delivery	(3) Every exporter who delivers or causes to be delivered fuel in bulk to a person outside Ontario shall provide to the Minister evidence that the fuel has been taken out of Ontario and of the delivery of the fuel outside Ontario.
Penalty	(4) Every exporter who fails to comply with subsection (1), (2) or (3) shall pay to the Treasurer a penalty equal to the amount of tax that would be payable under this Act in respect of the fuel if the fuel were a clear fuel sold to be used by a purchaser in Ontario to generate power in a motor vehicle.
Payment of penalty	(5) The penalty under subsection (4) is payable when it is assessed.
Offence, unregistered exporter	<b>4i.</b> Every person who contravenes subsection 4a (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 in respect of the fuel if the fuel were clear fuel sold to be used by a purchaser in Ontario to generate power in a motor vehicle.
Offence, exporter	<b>4j.</b> Every exporter who contravenes a condition or limitation attached to the exporter's registration by the Minister is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000.
Registered consumer	<b>4k.</b> —(1) A registered consumer may pay the tax imposed by this Act in accordance with the terms of the fuel acquisition permit issued to the registered consumer instead of making payment to a collector at the time of purchase.
Application for registration	(2) Subject to section 9, every person who will be acquiring fuel principally to be disposed of or consumed in the manner prescribed for the purposes of this subsection is entitled to be issued a fuel acquisition permit upon application in the prescribed form.
Conditions and limitations	(3) The Minister may attach such reasonable conditions and limitations to a fuel acquisition permit as the Minister considers appropriate.
Application of subs. (3)	(4) Subsection (3) applies in respect of a proposed fuel acquisition permit and in respect of an existing fuel acquisition permit.
Offence, registered consumer	<b>4L.</b> Every registered consumer who contravenes a condition or limitation of the fuel acquisition permit issued to the registered consumer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.



**5.—(1) The Act is amended by adding the following sections:**

**5 (1) La Loi est modifiée par adjonction des articles suivants :**

Interjurisdictional carrier

**4m.—(1)** No person shall act as an interjurisdictional carrier of a class prescribed for the purposes of this subsection unless the person is registered by the Minister.

Trip registration

(2) Every interjurisdictional carrier who is not required to be registered under subsection (1) shall apply for an Ontario trip registration certificate as specified in the regulations.

Application

(3) Subject to section 9, every person who proposes to act as an interjurisdictional carrier of a prescribed class is entitled to be registered as such and to be issued a certificate of registration or an Ontario trip registration certificate, as the case may be, upon application in the prescribed form and payment of the prescribed fees.

Registration decals

(4) Every interjurisdictional carrier who is a member of a class prescribed for the purposes of subsection (1) and who is registered by the Minister is entitled to be issued registration decals in the prescribed form by the Minister upon application in the prescribed form and payment of the prescribed fees.

Conditions and limitations

(5) The Minister may attach such reasonable conditions and limitations to the registration of an interjurisdictional carrier as the Minister considers appropriate.

Application of subs. (5)

(6) Subsection (5) applies in respect of a proposed registration and in respect of an existing registration of an interjurisdictional carrier.

Notice of change, interjurisdictional carrier

**4n.—(1)** Every person who is an interjurisdictional carrier shall notify the Minister in writing of,

- (a) any change in the name of the interjurisdictional carrier;
- (b) any change in the business address of the interjurisdictional carrier;
- (c) any change in the nature of the business of the interjurisdictional carrier; or
- (d) the termination of the business of the interjurisdictional carrier.

Transmittal

(2) The notice required by subsection (1) shall be given to the Minister forthwith upon the happening of the change or termination.

Communication re refund to broker driver

**4o.** The Minister may communicate to, furnish to or receive from an interjurisdictional carrier or a broker driver any information necessary to ascertain whether any tax imposed by this Act is refundable to the broker driver.

Offence, interjurisdictional carrier

**4p.—(1)** Every person who contravenes subsection 4m (1) (interjurisdictional carrier) or 4m (2) (trip registration) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$2,000 plus a fine in an amount equal to the amount of the tax that should have been paid or remitted by the interjurisdictional carrier.

Idem, condition or limitation

(2) Every interjurisdictional carrier who contravenes a condition or limitation attached to the registration of the interjurisdictional carrier under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$2,000.

Idem, registration decal

(3) Every operator of a motor vehicle to which a valid registration decal is not affixed when so required under this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

(2) The Act is further amended by adding the following sections:

(2) La Loi est modifiée en outre par adjonction des articles suivants :

Registered  
dye

**4q.**—(1) No person shall colour fuel unless the person is registered by the Minister as a dyer.

Application

(2) Subject to section 9, every collector who proposes to colour fuel is entitled to be registered as a dyer and to be issued a certificate of registration upon application in the prescribed form if the collector.

(a) owns or operates a terminal or northern terminal that the Minister has specified and the collector uses as a dye-point; and

(b) has total sales of coloured fuel from all dye-points owned or operated by the collector equal to or in excess of the prescribed percentage of the collector's total sales of coloured fuel during the calendar year before the person's application for registration.

Cancellation  
of registra-  
tion

(3) The Minister may cancel a person's registration as a dyer at the end of any twelve-month period during which the person's total sales of coloured fuel from all dye-points owned or operated by the person are less than the prescribed percentage of the person's total sales of coloured fuel.

Conditions  
and limita-  
tions

(4) The Minister may attach such reasonable conditions and limitations to a registration as a dyer as the Minister considers appropriate.

Application  
of subs. (4)

(5) Subsection (4) applies in respect of a proposed registration and in respect of an existing registration.

Dye-points

**4r.**—(1) The Minister may specify the number and location of dye-points that a registered dyer may establish and operate.

Dye held in  
trust

(2) Every registered dyer who possesses dye is deemed to hold the dye in trust for Her Majesty in right of Ontario for use in accordance with this Act and the regulations and is accountable for all dye at the time and in the manner provided by this Act and the regulations.

Notification

(3) Every registered dyer shall forthwith notify the Minister in writing of all changes in the name or nature of the registered dyer's business or of the termination of the business.

Use of dye

(4) Every registered dyer shall use only dye provided by the Minister in such manner, with such equipment and through such methods and procedures as are prescribed by the Minister to colour fuel.

Equipment  
testing

(5) In order to ensure compliance with this Act and the regulations, any person authorized for the purpose by the Minister may shut down and test any equipment used for the dyeing, storing, transporting or delivery of coloured fuel.

Offence

**4s.**—(1) Every registered dyer who refuses or neglects to dye fuel in accordance with the requirements prescribed by the Minister is guilty of an offence and on conviction is liable to a fine of not less than \$50,000 and not more than \$1,000,000.

Offence,  
unregistered  
dyer

(2) Every person who operates as a dyer of fuel without holding a subsisting certificate of registration as a dyer under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000 plus an amount equal to three times the tax that would be payable under section 2 had the fuel sold by the person during the period the person did not hold the certificate of registration been clear fuel sold to a purchaser in Ontario.

Offence,  
condition or  
limitation

(3) Every registered dyer who contravenes a condition or limitation in the certificate of registration issued to the registered dyer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.

**6. Subsection 5 (1), and subsections 5 (2) and (3), as amended by the Statutes of Ontario, 1989, chapter 72, section 86, of the Act are repealed and the following substituted:**

**6 Le paragraphe 5 (1) de la Loi et les paragraphes 5 (2) et (3), tels qu'ils sont modifiés par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, sont abrogés et remplacés par ce qui suit :**

Detention  
and exami-  
nation of  
motor  
vehicle

- (1) For the purpose of ascertaining,
  - (a) whether tax imposed by this Act has been paid on clear fuel contained in the fuel tank of a motor vehicle or whether the fuel tank contains coloured fuel;
  - (b) whether any tax imposed by this Act is payable on such fuel; and
  - (c) whether the operator of a motor vehicle is an interjurisdictional carrier whose motor vehicle carries a valid registration decal or is required to carry such a registration decal under the regulations,

any person authorized for the purpose by the Minister may, without a warrant, if the person has reasonable and probable grounds to believe that the motor vehicle contains evidence of a contravention of this Act, stop and detain any motor vehicle in Ontario, may examine the motor vehicle and fuel in any fuel tank thereof, take samples of the fuel and inspect any registration decal on the motor vehicle and may also examine the documents in the custody of the driver related to liability for tax under this Act, the ownership of the motor vehicle and the operator of the motor vehicle and may also examine the driver's licence required under the *Highway Traffic Act*.

Offence

(2) Every driver of a motor vehicle that may be stopped and detained under subsection (1) who,

- (a) fails to comply with a stop sign set up by a person authorized by the Minister to examine any motor vehicle;
- (b) fails to obey a lawful signal or request by a person authorized by the Minister to examine any motor vehicle;
- (c) drives a motor vehicle to which a valid registration decal is not affixed as required under the regulations;
- (d) refuses to permit the detention or examination of the motor vehicle that is under his or her control; or
- (e) refuses to permit samples of fuel to be taken from any fuel tank of the motor vehicle that is under his or her control,

is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

Offence

(3) Every driver of a motor vehicle that is found to contain coloured fuel in a fuel tank of the motor vehicle is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

**7. Section 6 of the Act is repealed and the following substituted:**

**7 L'article 6 de la Loi est abrogé et remplacé par ce qui suit :**

Invoice

**6.—(1)** Every vendor shall inform every person to whom the vendor sells fuel in bulk of the total price of the fuel and shall deliver to the person an invoice containing the information prescribed by the Minister.

Liability for  
tax

(2) Every person who purchases fuel in bulk from a vendor without obtaining a properly completed invoice that the vendor is

required to deliver under subsection (1) remains liable for any tax collectable or payable under this Act until the tax is actually paid over to a collector or to the Treasurer by the vendor, although the vendor is an agent of the Minister.

Idem

(3) Every person shall obtain from the vendor from whom the person purchases fuel, other than fuel in bulk, the total price of the fuel and an invoice containing the information prescribed by the Minister.

Offence

(4) Every person who fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000.

**8. The Act is further amended by adding the following section:**

**8 La Loi est modifiée en outre par adjonction de l'article suivant :**

Records

**6a.**—(1) Every collector, importer, exporter, registered consumer, interjurisdictional carrier, interjurisdictional transporter, wholesale dealer or retail dealer shall keep at that person's principal place of business records and books of account in such form and containing such information as will permit the accurate determination of the taxes collectable or payable under this Act.

Retention period

(2) Every person referred to in subsection (1) shall retain the records and books of account, as well as any other documents necessary to verify the information in the records and books of account, for a period of seven years following the end of the fiscal period to which the records and books of account relate, unless written permission for their disposal is received from the Minister.

Requirement

(3) The Minister may require a person who fails to comply with subsection (1) to keep such records and books of account as are specified by the Minister for such length of time as the Minister requires.

Offence

(4) Every person who fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default occurs or continues.

**9. Section 7 of the Act is repealed and the following substituted:**

**9 L'article 7 de la Loi est abrogé et remplacé par ce qui suit :**

Information

**7.**—(1) The Minister may demand information or additional information from a person for the purpose of evaluating the suitability of the person to be a collector, registered importer, registered exporter, registered dyer, registered consumer, interjurisdictional transporter or interjurisdictional carrier under this Act or to ascertain the amount of security to be furnished by the person in accordance with subsection (2) and the person shall deliver to the Minister the information or additional information the Minister requires within the time specified in the Minister's demand.

Security

(2) The Minister shall demand security in a form acceptable to the Minister from.

(a) every collector, in an amount not less than the equivalent of an average three months tax collectable and payable by the collector calculated for the twelve-month period preceding the date of the Minister's demand or \$1,000,000, whichever is greater;

(b) every registered importer, in an amount equal to the average three months tax collectable and payable by the importer calculated for the twelve-month period preceding the date of the Minister's demand or \$500,000, whichever is greater;



- (c) every registered exporter, in an amount specified by the Minister upon the forwarding to the Minister of information required under this Act or the regulations in respect of fuel intended to be taken or to be caused to be taken out of Ontario;
- (d) every registered dyer, in an amount equal to the greater of \$1,000,000 or the average three months tax that would be collectable and payable by the registered dyer calculated on the basis of the twelve-month period preceding the Minister's demand if the clear fuel acquired by the registered dyer for the purpose of colouring or for any other purpose were sold to a consumer in Ontario during the twelve-month period;
- (e) every registered consumer, in an amount equal to the tax that would otherwise have been payable by the registered consumer, if the registered consumer were not a registered consumer, on the average three months receipts of clear fuel calculated for the twelve-month period immediately preceding the date of the Minister's demand or \$100,000, whichever is the greater; and
- (f) every registered interjurisdictional carrier, in an amount not less than the equivalent of the average three months tax payable by the registered interjurisdictional carrier calculated for the twelve-month period immediately preceding the date of the Minister's demand.

Idem

(3) Every person shall, upon receipt of a demand under subsection (2), forthwith furnish the security to the Minister.

Idem

(4) The Minister may, at any time, increase or decrease the amount of security furnished or to be furnished under subsection (2).

**10. Section 8 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, sections 77 and 86, is repealed and the following substituted:**

**10 L'article 8 de la Loi, tel qu'il est modifié par les articles 77 et 86 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Interjurisdictional transporter

**8.—(1)** No person shall act as an interjurisdictional transporter unless the person is registered by the Minister as an interjurisdictional transporter.

Application

(2) Subject to section 9, every person who acts or proposes to act as an interjurisdictional transporter is entitled to be registered as an interjurisdictional transporter and to be issued a certificate of registration upon application in the prescribed form.

Conditions and limitations

(3) The Minister may attach such reasonable conditions and limitations to a registration as an interjurisdictional transporter as the Minister considers appropriate.

Application of subs. (3)

(4) Subsection (3) applies in respect of a proposed registration and in respect of an existing registration.

Uniform manifest form

(5) Every interjurisdictional transporter shall complete a uniform manifest form in the form provided by the Minister in respect of every shipment of fuel in bulk transported or transferred by the interjurisdictional transporter into or out of Ontario.

Transporter to obtain certificate

(6) Before undertaking to transport or transfer fuel in bulk into or out of Ontario for a registered importer or a registered exporter, the interjurisdictional transporter shall obtain the notarial copy of the registration certificate that the registered importer or registered exporter is required to provide under this Act.

Possession of documents

(7) Every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle or of the master of the

vessel in which the interjurisdictional transporter is transporting or transferring fuel in bulk,

- (a) the interjurisdictional transporter's certificate of registration issued under this Act;
- (b) the completed uniform manifest form required by subsection (5);
- (c) if the fuel in bulk is being transported or transferred for a registered importer or a registered exporter, the notarial copy of the certificate of registration that the registered importer or registered exporter is required to provide under this Act; and
- (d) evidence of payment, if any, made under subsection 11 (7) or of the proper colouration of the fuel.

Detention of  
vehicles

(8) Any person who is authorized for the purpose by the Minister and who has reasonable and probable grounds to believe that an interjurisdictional transporter does not hold a certificate of registration or is transporting or transferring fuel on behalf of an importer or exporter who does not hold a certificate of registration issued under this Act may, without a warrant, stop and detain any vehicle or vessel operated in Ontario by the interjurisdictional transporter and require production of the documents specified in subsection (7).

Seizure, etc.,  
of fuel

(9) If, following a detention under subsection (8), the driver of the motor vehicle or the master of the vessel fails to produce the documents specified in subsection (7), the person authorized for the purpose by the Minister may, without a warrant but subject to subsections (10), (11), (12) and (14), seize, impound, hold and dispose of the fuel, unless the interjurisdictional transporter complies with subsection (11).

No seizure,  
etc.

(10) Fuel is not subject to holding, seizure, impounding or disposal under this section if the driver of the motor vehicle or the master of the vessel in which the fuel is transported or transferred provides proof satisfactory to the person authorized for the purpose by the Minister,

- (a) of the quantity and the destination of the fuel being transported or transferred;
- (b) that the driver or master holds a certificate of registration or a notarial copy of a certificate of registration of the interjurisdictional transporter issued under this Act;
- (c) if the fuel is being transported or transferred for an importer or exporter, that the importer or exporter holds a valid certificate of registration issued under this Act;
- (d) if tax or security is payable in respect of the fuel being transported or transferred, that the tax or security has been paid; and
- (e) if the fuel being transported or transferred is not clear fuel, that the fuel has been coloured in accordance with this Act and the regulations.

Forfeiture

(11) Fuel seized under subsection (9) is forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the fuel is seized, or the owner of the fuel, pays to the Treasurer an amount, as a penalty, equal to the tax that would be payable under clause 2 (1) (a) if the fuel were clear fuel sold to a purchaser in Ontario.

Application

(12) The driver of the motor vehicle or the master of the vessel from which fuel is seized under this section, or the owner of

the fuel, may bring an application in the Ontario Court (General Division) to establish the right to possession of the fuel.

- Time limit (13) An application under subsection (12) is not valid unless made within thirty days after the date on which the fuel is seized.
- Standards (14) For the purposes of an application to the Ontario Court (General Division), the driver, the master or the owner has the right to possession of the fuel if, when the fuel is seized,
- (a) the driver or the master holds a certificate of registration or a notarial copy of a certificate of registration of the interjurisdictional transporter issued under this section;
  - (b) the fuel is being transported or transferred on behalf of an exporter who holds a certificate of registration issued under this Act;
  - (c) if the fuel is clear fuel being imported into Ontario, the tax or security payable under this Act has been paid or the driver, the master or the owner has complied with the regulations with respect to the importation of clear fuel for colouration; and
  - (d) if the driver or the master does not hold a uniform manifest form completed in accordance with this Act and the regulations, the driver or owner delivers the form so completed to the Minister within five days of the date when the fuel is seized.
- Order (15) The court, if satisfied that the driver, the master or the owner has the right to possession of the fuel, may order that the fuel be returned to the driver, the master or owner or that the proceeds of sale of the fuel be paid to the owner.
- Disposal pending final disposition (16) If the application is not finally disposed of within sixty days after the date on which it is made, the Minister may dispose of the fuel and retain the proceeds of the sale pending final disposition of the application.
- Forfeiture of fuel (17) If the application is dismissed and any appeal is dismissed or the time for appeal has expired, the fuel is forfeited to Her Majesty in right of Ontario to be disposed of as the Minister directs.
- Proceeds of sale (18) If a sale of fuel is directed under subsection (11) or (17), or if the proceeds of a sale are retained under subsection (16) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the fuel and after payment of the penalty owing under subsection (11) shall be paid to the person from whom the fuel was seized or to the person who owned the fuel before it was forfeited.
- Offence (19) Every interjurisdictional transporter transporting or transferring fuel in bulk into or out of Ontario who fails to produce any of the documents required to be kept in the possession of the driver or the master under subsection (7) is guilty of an offence and on conviction is liable to a fine of not less than \$150 and not more than \$1,000 for each document not produced.

**11. Section 9 of the Act is repealed and the following substituted:**

**11 L'article 9 de la Loi est abrogé et remplacé par ce qui suit :**

Refusal to designate or register

**9.—(1)** The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person fails to satisfy the Minister that the person has the ability to perform the conditions or observe the limitations that the Minister proposes to attach to the designation, registration or permit.



Idem	(2) The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person fails to furnish security in accordance with section 7.
Suspension or cancellation	(3) The Minister may suspend or cancel the designation of, permit issued to, or registration of any person under this Act if the person contravenes or permits the contravention of any provision of this Act or the regulations or a condition or limitation attached to the designation, permit or registration.
Hearing	(4) If the Minister proposes to act under subsection (1), (2) or (3), the Minister shall afford the person the opportunity to appear before the Minister to show cause why the Minister should not so act.
Immediate suspension	(5) Despite subsection (4), the Minister may suspend forthwith the designation of, permit issued to, or registration of any person under this Act if the person fails to deliver a return required by this Act or the regulations or fails to remit tax collectable or payable by the person under this Act.
Notice of suspension	(6) A suspension forthwith shall be by notice in writing with written reasons, and shall state that the person may, by notice in writing served on the Minister within 180 days after service of the notice of suspension, require a hearing by the Minister to determine whether the suspension should be rescinded, rescinded subject to conditions, or whether the designation, permit or registration should be cancelled, and the person may so require the hearing.
Service of notice	(7) A notice under this section may be served personally or by registered mail addressed to the person to whom notice is to be given at the person's last known address.
Idem	(8) Service by registered mail of a notice under this section shall be deemed to have been made on the fifth day after the day of mailing unless the person establishes that, though acting in good faith, the person did not receive the notice or did not receive it until a later date.
Conviction for fraud or tax evasion	(9) The Minister may refuse to designate or register any person or to issue a permit to any person under this Act if the person or an officer, director, shareholder or partner of the person has been convicted of the offence of fraud or tax evasion within five years of the date of the application for the designation, registration or permit, and subsection (4) does not apply in respect of the refusal.

**12.—(1) Subsections 10 (1), (2) and (3) of the Act are repealed and the following substituted:**

**12 (1) Les paragraphes 10 (1), (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :**

Returns	<p>(1) Every person who is a collector, registered importer, registered exporter, registered dyer, interjurisdictional carrier, interjurisdictional transporter or registered consumer shall deliver to the Minister such return as the Minister requires for the purposes of this Act,</p> <p>(a) at the prescribed time and in the prescribed manner; and</p> <p>(b) on or before the date designated in a notice or demand by the Minister, if the Minister serves or causes to be served a notice or demand, either personally or by registered mail, upon the person.</p>
Verification of returns	<p>(2) Every return required under subsection (1) shall be verified by the certificate of the person referred to in subsection (1) delivering the return or, if not an individual, of the president, resident manager or representative in Ontario of the person that the financial and other statements of information included in or attached to the return are in agreement with the records of the</p>



person and contain correctly and completely all information for the period covered by the return.

Penalty

(3) Every person who fails to deliver a return as required by subsection (1) shall pay a penalty of not less than \$300 plus not more than 25 per cent of the tax payable and 25 per cent of the tax collectable by the person, whether or not the failure to file a return was caused by a person acting as an agent under subsection (7).

(2) Section 10 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 86, is further amended by adding the following subsections:

(2) L'article 10 de la Loi, tel qu'il est modifié par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des paragraphes suivants :

Compliance  
by agent

(7) Compliance with subsections (1) and (2) may be carried out by a person with whom the person referred to in subsection (1) has entered into a written agreement under which the first person is authorized to act as an agent to prepare and deliver to the Minister the return required by subsection (1), but this subsection applies only if the first person has been granted and exercises power of attorney to verify the return in the manner required by subsection (2) for the period the agreement is in force.

Penalty

(8) Every person referred to in subsection (1) who fails to remit the amount of the tax collectable or the tax payable, as the case may be, by the person with the person's return shall pay a penalty, when assessed therefor, of an amount equal to 25 per cent of the tax that was collectable or that was payable by the person for the period covered by the return.

**13.—(1) Subsections 11 (1) and (2) of the Act are repealed and the following substituted:**

**13 (1) Les paragraphes 11 (1) et (2) de la Loi sont abrogés et remplacés par ce qui suit :**

Transmission  
of tax

(1) Every registered importer, registered consumer or interjurisdictional carrier shall transmit with the return required by section 10 the amount of the tax payable or the amount of the tax payable and collectable, as the case may be, by the registered importer, registered consumer or interjurisdictional carrier.

Interest

(2) A person who is a collector, importer or interjurisdictional carrier and who transmits less than the amount of tax payable or the amount of tax payable and collectable by the person shall pay to the Treasurer interest at the prescribed rate upon the deficiency from the date of default until the date of transmission of the deficiency to the Treasurer whether or not the amount transmitted was transmitted with a return prepared and delivered to the Minister in accordance with subsection 10 (7).

(2) Subsection 11 (3) of the Act is amended by striking out "registered consumer" wherever it occurs.

(2) Le paragraphe 11 (3) de la Loi est modifié par suppression de «registered consumer» partout où il figure.

(3) Subsection 11 (4) of the Act is repealed and the following substituted:

(3) Le paragraphe 11 (4) de la Loi est abrogé et remplacé par ce qui suit :

Offence

(4) Every person who is required to pay over to a collector or importer or to remit to the Treasurer the tax imposed by this Act and who fails to pay over or to remit the tax collected by the person is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to 25 per cent of the tax and not more than an amount equal to double the amount of the tax collected and not paid over or remitted.

(4) Subsections 11 (5) and (6) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 37, section 3, are repealed.

(4) Les paragraphes 11 (5) et (6) de la Loi, tels qu'ils sont adoptés de nouveau par l'arti-

(5) Subsection 11 (7) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 37, section 3, is repealed and the following substituted:

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a registered importer shall remit to the Treasurer,

(a) an amount as security equal to the tax under this Act that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and

(b) the tax payable by the importer under section 2.

**14.** Subsection 12 (2) of the Act is amended by inserting after “carrier” in the third line and in the seventh line in each case “registered dyer, exporter, interjurisdictional transporter”.

**15.—(1)** Subsection 13 (1) of the Act is repealed and the following substituted:

Notice of  
assessment

(1) If a person fails to make a return or a remittance as required under this Act or if the person's returns are not substantiated by the person's records, the Minister may make an assessment of the amount of tax collected by the person as agent for the Minister or the tax payable by the person, for which the person has not accounted, and the amount shall be deemed to be the tax collected or the tax payable, as the case may be.

(2) Subsection 13 (6) of the Act is amended by inserting after “entitled” in the fourth line “and interest thereon at the prescribed rate from the date of payment of the erroneous refund”.

(3) Section 13 of the Act is amended by adding the following subsection:

Notice of  
assessment

(12) The Minister may, at any time the Minister considers reasonable, assess an interjurisdictional carrier, who has failed or refused to maintain adequate books of account for the purposes of subsection 12 (3), the tax payable under this Act by the interjurisdictional carrier and, for the purpose of ascertaining the amount of the tax to be assessed, the person's interjurisdictional vehicles or fleet of interjurisdictional vehicles shall be deemed to have travelled a distance equal to 1.6 kilometres for each litre of fuel consumed by the vehicles or fleet of vehicles.

**16.—(1)** Subsection 14 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 3, is repealed and the following substituted:

Notice of  
objection

(1) A person who objects to an assessment or statement of disallowance under section 13, or to a penalty paid or assessed under this Act, may, within 180 days from the service of the notice of assessment or statement of disallowance, or the payment of the penalty under subsection 8 (11), serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(2) Subsection 14 (4) of the Act is repealed and the following substituted:

Reconsider-  
ation

(4) Upon receipt of the notice of objection, the Minister shall with all due dispatch reconsider the assessment, statement of dis-

cle 3 du chapitre 37 des Lois de l'Ontario de 1989, sont abrogés.

(5) Le paragraphe 11 (7) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 37 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

**14** Le paragraphe 12 (2) de la Loi est modifié par insertion, après «carrier» aux troisième et septième lignes, de «registered dyer, exporter, interjurisdictional transporter».

**15** (1) Le paragraphe 13 (1) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 13 (6) de la Loi est modifié par insertion, après «entitled» à la quatrième ligne, de «and interest thereon at the prescribed rate from the date of payment of the erroneous refund».

(3) L'article 13 de la Loi est modifié par adjonction du paragraphe suivant :

**16** (1) Le paragraphe 14 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 23 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 14 (4) de la Loi est abrogé et remplacé par ce qui suit :

allowance or penalty objected to and vacate, confirm or vary the assessment, statement of disallowance or penalty and reassess or serve a fresh statement of disallowance, and the Minister shall notify the person making the objection of the action by the Minister by letter, either sent by registered mail to, or personally served on, the person.

(3) Subsection 14 (5) of the Act is amended by striking out "or statement of disallowance" in the fourth line and substituting "statement of disallowance or penalty".

(4) Subsection 14 (13) of the Act is amended by inserting after "tax" in the second line "or penalty".

17. Subsection 15 (1) of the Act is repealed and the following substituted:

Certificate to  
prove  
amount of  
tax

(1) The Deputy Minister of Revenue shall determine the amount of the tax referred to in subsections 2 (8), 2 (9), 3i (1), 3i (2) and 4 (5), section 4i, subsections 4p (1), 4s (2) and 11 (4) and section 27 from such information as is available to the Deputy Minister and shall issue a certificate as to the amount, and such a certificate that is signed or that purports to be signed by the Deputy Minister and that states the amount of tax that should have been collected or paid or that would be payable under section 2 is proof, in the absence of evidence to the contrary, of the amount of the tax and of the authority of the person who issued the certificate without proof of appointment or signature.

18.—(1) Clause 18 (1) (c) of the Act is amended by striking out "registered consumer" in the second line and substituting "exporter".

(2) Clause 18 (1) (d) of the Act is repealed.

(3) Subsection 18 (2) of the Act is amended by inserting after "consumer" in the fifth line "exporter, interjurisdictional transporter".

19.—(1) Subsection 21 (1) of the Act is amended by striking out "or, coloured fuel on which the tax was paid in error" in the second and third lines.

(2) Subsections 21 (2) and (3) of the Act are repealed and the following substituted:

Idem

(2) The Minister may refund the tax paid on clear fuel purchased if the fuel was used to operate,

(a) a road-building machine as defined in section 1 of the *Highway Traffic Act*; or

(b) auxiliary equipment of a motor vehicle, the power from which equipment is not used for the propulsion of a motor vehicle on a highway, and if the motor vehicle to which the equipment is auxiliary is not principally used by its owner or operator for the transportation of passengers, whether or not for hire, or for the pleasure or recreation of the owner or operator.

Application  
for refund

(3) A refund under this Act shall not be made unless an application therefor, accompanied by properly receipted invoices, is received by the Minister within three years of the date when the tax, a refund of which is sought, was paid and it is established to

(3) Le paragraphe 14 (5) de la Loi est modifié par substitution, à «or statement of disallowance» à la quatrième ligne, de «statement of disallowance or penalty».

(4) Le paragraphe 14 (13) de la Loi est modifié par insertion, après «tax» à la deuxième ligne, de «or penalty».

17 Le paragraphe 15 (1) de la Loi est abrogé et remplacé par ce qui suit :

18 (1) L'alinéa 18 (1) (c) de la Loi est modifié par substitution, à «registered consumer» à la deuxième ligne, de «exporter».

(2) L'alinéa 18 (1) (d) de la Loi est abrogé.

(3) Le paragraphe 18 (2) de la Loi est modifié par insertion, après «consumer» à la cinquième ligne, de «exporter, interjurisdictional transporter».

19 (1) Le paragraphe 21 (1) de la Loi est modifié par suppression de «or, coloured fuel on which the tax was paid in error» aux deuxième et troisième lignes.

(2) Les paragraphes 21 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :



the satisfaction of the Minister that the applicant is entitled to the refund claimed.

Idem

(4) Every invoice submitted with an application for a refund under this Act shall clearly indicate, in addition to the information required to be shown on an invoice under subsection 6 (1) or (2), the date of payment of the tax, and no refund shall be paid where the applicant has misrepresented a material fact in respect of any invoice.

Penalty

(5) If an applicant for a refund under this Act has misrepresented a material fact on or in connection with an application for a refund, in a return where an amount was retained by the applicant under subsection 11 (3) or in an invoice supporting the application or return, the Minister may, in addition to denying all or any part of the refund claimed through the use of the application or return, impose a penalty of not more than an amount equal to the refund denied.

Refund

(6) If a person has transmitted to the Treasurer an amount in excess of the tax collectable or payable by the person under this Act, the excess shall be refunded to the person upon application therefor made within three years of the date of payment of the excess amount and, subject to subsection 13 (11) and subsection (7), if, as the result of an assessment or reassessment or the final decision of a court in proceedings commenced under section 14, it is established that the person assessed or reassessed or the appellant, as the case may be, has overpaid tax, the amount of the overpayment shall be refunded to the person.

Deemed tax

(7) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax under this Act owing to Her Majesty in right of Ontario, and the proceedings under this Act relating to collection of tax apply with necessary modifications to the amount.

**20.—(1) Subsection 22 (4) of the Act is repealed and the following substituted:**

**20 (1) Le paragraphe 22 (4) de la Loi est abrogé et remplacé par ce qui suit :**

Communica-  
tion

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

(a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and

(b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal  
communica-  
tion

(4a) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of infor-  
mation

(4b) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

**(2) Subsection 22 (6) of the Act is repealed and the following substituted:**

**(2) Le paragraphe 22 (6) de la Loi est abrogé et remplacé par ce qui suit :**



## Information

(6) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) information, records or things obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

**21. Section 25 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 77, is repealed and the following substituted:**

**21 L'article 25 de la Loi, tel qu'il est modifié par l'article 77 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Offence,  
false state-  
ments

**25.—(1)** Every person is guilty of an offence who,

- (a) makes, participates in, assents to, or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of the records or books of account of a purchaser, importer, exporter, collector, registered consumer, interjurisdictional carrier or transporter;
- (c) makes, assents to or acquiesces in the making of false or deceptive entries or omits, assents to or acquiesces in the omission, to enter a material particular in records or books of a person referred to in clause (b);
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspires with another person to commit an offence described in clause (a), (b), (c) or (d).

## Penalty

(2) Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine of not less than an amount equal to the amount of the tax that should have been declared to be collectable or payable or that is sought to be evaded and not more than triple the amount of the tax, or to imprisonment for a term of not more than two years, or to both.

**22. The Act is further amended by adding the following section:**

**22 La Loi est modifiée en outre par adjonction de l'article suivant :**

## Directors

**25a.—(1)** If a corporation has failed to collect tax under this Act, has collected tax and failed to remit the tax or has failed to pay any interest or penalty related thereto, the directors of the corporation at the time the corporation is required to collect or remit the taxes or to pay the interest or penalty related thereto, are jointly and severally liable, together with the corporation, to pay such amounts.

## Exception

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 17 (1) (b) and the warrant has been returned by the sheriff unsatisfied in whole or in part; or
- (b) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act*

(Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

Prudent  
director

(3) A director of a corporation is not liable for a failure described in subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would exercise in comparable circumstances.

Assessment

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with necessary modifications.

Time limit

(5) An assessment under subsection (4) shall not be made more than two years after the person last ceased to be a director of the corporation.

Execution

(6) If execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Idem

(7) If a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Ontario would be entitled to had the amount not been so paid and, where a warrant of execution has been issued under clause 17 (1) (b), the director is entitled to the assignment of the warrant of execution to the extent of the director's payment, and the Minister may make the assignment.

Allocation  
by Minister

(8) For the purpose of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and to any liability for tax payable under this Act including any penalty and interest relating thereto.

**23. Section 26 of the Act is repealed and the following substituted:**

**23 L'article 26 de la Loi est abrogé et remplacé par ce qui suit :**

Offence

**26.—**(1) Any person who,

- (a) destroys or removes, in any manner, the dye or any component of the dye in any coloured fuel;
- (b) attempts, in any manner, to destroy or remove the dye or any component of the dye in any coloured fuel; or
- (c) mixes or combines coloured fuel with any other type or grade of fuel,

is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$1,000,000 or to imprisonment for a term of not more than two years, or to both.

Penalty

(2) Any dealer who possesses fuel in bulk from which the dye or a component of the dye has been removed or destroyed, or who possesses coloured fuel that has been mixed or combined with any other type or grade of fuel, shall pay a penalty, when assessed therefor, equal to three times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

Subsequent  
penalty

(3) In addition to any penalty assessed under subsection (2), a dealer against whom an assessment has been issued under subsection (2) who possesses fuel in bulk from which the dye or a component of the dye has been removed or destroyed, or who possesses fuel that has been mixed or combined with any other

type or grade of fuel, shall pay a penalty, when assessed therefor, equal to ten times the tax that would be payable under section 2 if the fuel were clear fuel sold to a purchaser in Ontario.

Offence,  
seals or  
labels

(4) Any person who, without the prior written permission of the Minister, removes, breaks or alters a seal or identifying label affixed in accordance with this Act or the regulations to any tank, drum or machine is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$100,000.

Offence,  
stock  
coloured fuel  
and clear  
fuel

(5) Any person who stocks coloured fuel on premises where clear fuel is sold to purchasers is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$100,000.

Saving

(6) A person is not liable to prosecution under subsection (5) if the coloured fuel is contained in a separate tank or cistern and the pump delivering the fuel from that separate tank or cistern is clearly marked to indicate that coloured fuel is being delivered.

**24. Section 29 of the Act is repealed and the following substituted:**

**24 L'article 29 de la Loi est abrogé et remplacé par ce qui suit :**

Service of  
offence  
notice or  
summons

**29.** In respect of an offence under this Act that involves a motor vehicle, delivery of an offence notice or summons to the driver of the vehicle shall be deemed to be service on the operator of the vehicle for the purposes of Part I of the *Provincial Offences Act*, unless, at the time of the offence, the vehicle was in the possession of the driver without the operator's consent.

**25.—(1) Clause 30 (1) (i) of the Act is repealed and the following substituted:**

**25 (1) L'alinéa 30 (1) (i) de la Loi est abrogé et remplacé par ce qui suit :**

(i) prescribing a system of compensation to reimburse registered dyers for a part or all of their costs incurred in colouring fuel, fixing the rate or rates of compensation to be paid to registered dyers per litre of fuel coloured, and providing for the maximum amount of compensation to registered dyers and for the method by which the compensation may be paid.

**(2) Clause 30 (2) (h) of the Act is amended by striking out "subsection 2 (2)" in the first line and substituting "subsection 4k (2)".**

**(2) L'alinéa 30 (2) (h) de la Loi est modifié par substitution, à «subsection 2 (2)» à la première ligne, de «subsection 4k (2)».**

**(3) Clause 30 (2) (i) of the Act is repealed and the following substituted:**

**(3) L'alinéa 30 (2) (i) de la Loi est abrogé et remplacé par ce qui suit :**

(i) prescribing conditions and restrictions that shall apply in respect of interjurisdictional carriers, interjurisdictional transporters, registered dyers, registered importers, registered exporters and registered consumers, and the method of paying the tax imposed by this Act to be followed by all interjurisdictional carriers.

**(4) Clause 30 (2) (j) of the Act is repealed and the following substituted:**

**(4) L'alinéa 30 (2) (j) de la Loi est abrogé et remplacé par ce qui suit :**

(j) governing the issuance and use of registration decals and prescribing fees therefor.

**(5) Clause 30 (2) (k) of the Act is repealed and the following substituted:**

**(5) L'alinéa 30 (2) (k) de la Loi est abrogé et remplacé par ce qui suit :**

(k) prescribing the method of collecting and paying or transmitting the tax imposed by this Act to be followed by collectors, registered importers and interjurisdictional carriers.

**(6) Clause 30 (2) (l) of the Act is repealed and the following substituted:**

**(6) L'alinéa 30 (2) (l) de la Loi est abrogé et remplacé par ce qui suit :**



- (l) prescribing the processes which a registered dyer shall use to colour and dispense coloured fuel, the time and manner of accounting for dye by a registered dyer and the use that may be made of dye by any other person.

(7) Clause 30 (2) (o) of the Act is amended by striking out “collectors” in the first line and substituting “registered dyers”.

(7) L’alinéa 30 (2) (o) de la Loi est modifié par substitution, à «collectors» à la première ligne, de «registered dyers».

(8) Clause 30 (2) (q) of the Act is repealed and the following substituted:

(8) L’alinéa 30 (2) (q) de la Loi est abrogé et remplacé par ce qui suit :

- (q) prescribing anything referred to in this Act as prescribed by the Minister.

(9) Clause 30 (2) (r) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 16, section 2, is repealed and the following substituted:

(9) L’alinéa 30 (2) (r) de la Loi, tel qu’il est adopté par l’article 2 du chapitre 16 des Lois de l’Ontario de 1983, est abrogé et remplacé par ce qui suit :

- (r) prescribing classes of interjurisdictional carriers whose members are required to each hold a certificate of registration and classes of interjurisdictional carriers whose members are required to each apply for an Ontario trip registration certificate under section 4m.

(10) Subsection 30 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 16, section 2 and 1985, chapter 23, section 6, is further amended by adding the following clauses:

(10) Le paragraphe 30 (2) de la Loi, tel qu’il est modifié par l’article 2 du chapitre 16 des Lois de l’Ontario de 1983 et par l’article 6 du chapitre 23 des Lois de l’Ontario de 1985, est modifié en outre par adjonction des alinéas suivants :

- (b) prescribing the percentage of a collector’s total sales of coloured fuel for each calendar year during which the collector’s certificate as a registered dyer remains in force for the purposes of clause 1 (1) (pa);

- (c) prescribing information to be provided by exporters and the form and manner in which such information is to be provided for the purposes of section 4h;

- (u) prescribing information to be included on invoices for the purposes of section 6.

**26.—(1)** Except as provided in subsections (2) and (3), this Act comes into force on the 1st day of January, 1992.

**26** (1) Sous réserve des paragraphes (2) et (3), la présente loi entre en vigueur le 1<sup>er</sup> janvier 1992. Entrée en vigueur

(2) Subsection 4 (1) shall be deemed to have come into force on the 30th day of April, 1991.

(2) Le paragraphe 4 (1) est réputé être entré en vigueur le 30 avril 1991. Idem

(3) Subsection 5 (2) comes into force on the 1st day of April, 1992.

(3) Le paragraphe 5 (2) entre en vigueur le 1<sup>er</sup> avril 1992. Idem

**27.** The short title of this Act is the *Fuel Tax Amendment Act, 1991*.

**27** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur les carburants*. Titre abrégé

Commence-  
ment

Idem

Idem

Short title





Bill 86

Government Bill

Projet de loi 86

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 86

### An Act to amend the Gasoline Tax Act

**The Hon. S. Wark-Martyn**  
Minister of Revenue

1st Reading     April 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 86

### Loi portant modification de la Loi de la taxe sur l'essence



**L'honorable S. Wark-Martyn**  
Ministre du Revenu

1<sup>re</sup> lecture     29 avril 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the tax increases contained in the Treasurer's budget of the 29th day of April, 1991. It is also intended to reduce evasion of tax by,

- (a) requiring the registration and bonding of those who deal in gasoline, aviation fuel or propane; and
- (b) providing increased fines and penalties for non-compliance.

**SECTION 1.** The definitions are complementary to the amendments set out in the Bill.

**SECTION 2.—Subsections 1 and 2.** The amendments implement the Treasurer's 1991 budget proposal to increase the tax on unleaded gasoline, effective the 30th day of April, 1991 by 1.7 cents to 13.0 cents per litre and, effective the 1st day of January, 1992, by another 1.7 cents to 14.7 cents per litre. It will also increase the tax on aviation fuel, effective the 30th day of April, 1991, by 0.3 cents to 2.4 cents per litre and, effective the 1st day of January, 1992, by another 0.3 cents to 2.7 cents per litre.

**Subsection 4.** Offences are proposed for knowingly failing to pay tax and failing to pay tax at the time of purchase or delivery.

**SECTION 3.** The responsibilities of collectors, importers, wholesalers and retailers to collect tax are specified.

**SECTION 5.** Importers are required to register under the Act and thereafter they can avoid the payment of tax at the Canadian border. The responsibilities of a registered importer are specified. Exporters are required to register and responsibilities are specified.

**SECTION 6.** Provisions are enacted that,

- (a) require interjurisdictional transporters to register, state their responsibilities and permits the seizure of gasoline, aviation fuel or propane from those who fail to comply with the Act, and the disposal of the load where a penalty is not paid;
- (b) permit the Minister to require that security be provided by collectors, exporters and registered importers;
- (c) permit the Minister to refuse to designate or register any person or to cancel a designation or registration, and provides for a hearing in those circumstances;
- (d) provide for returns to be filed by collectors, registered importers, exporters and interjurisdictional transporters;
- (e) provide for the transmittal of tax collectable or payable by collectors or importers; and
- (f) provide for the detention of vehicles transporting gasoline, aviation fuel or propane for inspection of the cargo or documentation.

**SECTION 7.** Provision is made for a three-year limitation on assessment of purchasers, if there is no misrepresentation, for an assessment of erroneously paid refunds and for a penalty for failure to collect tax as required by the Act.

**SECTION 8.** Provision is made for a right to object and an appeal with respect to an assessment or a disallowance of a refund.

**SECTION 10.** Delivery of invoices to purchasers of gasoline is required and an offence is provided for failure to keep records as required by the Minister.

## NOTES EXPLICATIVES

**OBJET GÉNÉRAL** Le projet de loi donne effet aux augmentations de taxe prévues dans le budget du 29 avril 1991 présenté par le trésorier. Il vise aussi à diminuer l'évasion fiscale en :

- a) exigeant l'inscription et le cautionnement de ceux qui font le commerce d'essence, de carburant aviation ou de propane;
- b) prévoyant des amendes et des peines plus sévères en cas d'inobservation de la Loi.

**ARTICLE 1** Les définitions découlent des modifications énoncées dans le projet de loi.

**ARTICLE 2—Paragraphe 1 et 2** Les modifications appliquent la proposition présentée par le trésorier dans son budget de 1991 visant à augmenter la taxe sur l'essence sans plomb de 1,7 cent le 30 avril 1991, la faisant ainsi passer à 13 cents le litre, et à nouveau le 1<sup>er</sup> janvier 1992, la portant alors à 14,7 cents le litre. La taxe sur le carburant aviation augmente également de 0,3 cent le 30 avril 1991 et le 1<sup>er</sup> janvier 1992, passant à 2,4 cents et à 2,7 cents respectivement.

**Paragraphe 4** Quiconque néglige sciemment de payer la taxe, notamment au moment de l'achat ou de la livraison, commet une infraction.

**ARTICLE 3** Les responsabilités des percepteurs, des importateurs, des grossistes et des détaillants en ce qui a trait à la perception de la taxe sont précisées.

**ARTICLE 5** Les importateurs sont tenus de s'inscrire aux termes de la Loi et ne sont pas obligés par la suite de payer la taxe à la frontière canadienne. Les responsabilités des importateurs inscrits sont précisées. Les exportateurs sont tenus de s'inscrire et leurs responsabilités sont précisées.

**ARTICLE 6** Ces nouvelles dispositions :

- a) exigent des entrepreneurs de transports interterritoriaux qu'ils s'inscrivent, énoncent leurs responsabilités et autorisent la saisie d'essence, de carburant aviation ou de propane dans le cas de ceux qui négligent de se conformer à la Loi, ainsi que l'aliénation du chargement lorsqu'une pénalité n'est pas payée;
- b) autorisent le ministre à exiger des percepteurs, des exportateurs et des importateurs inscrits qu'ils versent un cautionnement;
- c) autorisent le ministre à refuser de désigner ou d'inscrire une personne ou à annuler une désignation ou une inscription, et prévoient la tenue d'une audience dans de tels cas;
- d) prévoient le dépôt de déclarations par les percepteurs, les importateurs inscrits, les exportateurs inscrits et les entrepreneurs de transports interterritoriaux inscrits;
- e) prévoient la remise de la taxe percevable ou payable par les percepteurs ou les importateurs;
- f) permettent de retenir les véhicules qui transportent de l'essence, du carburant aviation ou du propane aux fins d'inspection de la cargaison ou de la documentation.

**ARTICLE 7** Il est prévu un délai maximal de trois ans pour l'établissement de la cotisation des acheteurs, s'il n'y a pas de fausse représentation, pour l'établissement d'une cotisation à l'égard des remboursements payés par erreur et pour l'imposition d'une pénalité en cas d'omission de percevoir la taxe comme l'exige la Loi.

**ARTICLE 8** Il est prévu un droit d'opposition et d'appel à l'égard d'une cotisation ou d'un refus de remboursement.

**ARTICLE 10** Les vendeurs doivent remettre une facture aux acheteurs d'essence et quiconque néglige de tenir les dossiers exigés par le ministre commet une infraction.

**SECTION 11.** The provisions permit taking samples from storage tanks and provide an indemnity to the Crown for damage that results from the taking of such samples. Fines for the failure to comply with section 16 are increased to \$50 per day.

**SECTION 13.** Provision is made for an application to a court where the garnishee fails to pay the Treasurer.

**SECTION 14.** Provision is made for the issuance of a certificate specifying the amount of uncollected tax for the purpose of a prosecution of any person who refuses or neglects to collect tax under the Act.

**SECTION 16.** The penalty for making false statements, destroying records, making false entries in or omissions from records and wilfully evading compliance with the Act or the payment of tax is increased to a minimum of the tax not declared or sought to be evaded and to a maximum of three times that tax.

**SECTION 17.** The general penalty is increased where no specific penalty for an offence is provided.

**SECTION 18.** Provisions are added to make directors of a corporation jointly and severally liable for amounts of tax not collected or collected and not remitted that remains owing and unpaid by the corporation.

**SECTION 20.** The Minister is authorized to impose a penalty where an application for a refund misrepresents a material fact.

**SECTION 21.** The exchange of information is authorized with other Ontario Ministries. The reciprocal exchange of tax information with any other jurisdiction is authorized. A fine is provided for contravening section 30 of the Act.

**SECTION 22.** Specified authority to make regulations is provided.

The Bill amends only the English version of the *Gasoline Tax Act*. The Legislature has not yet adopted an official French version of this Act.

**ARTICLE 11** Ces dispositions autorisent le prélèvement d'échantillons dans des réservoirs d'entreposage et prévoient le paiement d'une indemnité à la Couronne pour tout dommage résultant d'un tel prélèvement. Les amendes prévues en cas d'inobservation de l'article 16 sont portées à 50 \$ par jour.

**ARTICLE 13** Les tribunaux peuvent être saisis d'une requête lorsque le tiers saisi néglige de payer le trésorier.

**ARTICLE 14** Il est prévu la délivrance d'un certificat précisant le montant de la taxe non perçue aux fins des poursuites engagées contre quiconque refuse ou néglige de percevoir la taxe aux termes de la Loi.

**ARTICLE 16** La peine imposée à quiconque fait une déclaration fausse, détruit des dossiers, fait des inscriptions fausses dans un dossier ou omet d'y faire des inscriptions et se soustrait délibérément à l'application de la Loi ou élude le paiement de la taxe est portée à au moins la taxe non déclarée ou la taxe dont il a été tenté d'éluder le paiement et à au plus trois fois le montant de cette taxe.

**ARTICLE 17** La peine générale est augmentée lorsqu'aucune peine précise n'est prévue pour une infraction.

**ARTICLE 18** Des dispositions sont ajoutées qui rendent les administrateurs d'une personne morale solidairement responsables des montants de la taxe qui n'ont pas été perçus ou qui ont été perçus mais non remis et qui demeurent impayés par la personne morale.

**ARTICLE 20** Le ministre est autorisé à imposer une pénalité lorsqu'une demande de remboursement contient une déclaration inexacte concernant un fait pertinent.

**ARTICLE 21** La communication de renseignements à d'autres ministères de l'Ontario et l'échange réciproque de renseignements fiscaux avec une autre autorité législative sont autorisés. Une amende est prévue en cas d'inobservation de l'article 30 de la Loi.

**ARTICLE 22** Le pouvoir de prendre des règlements est précisé.

Le projet de loi ne modifie que la version anglaise de la *Loi de la taxe sur l'essence*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.





**An Act to amend the  
Gasoline Tax Act**

**Loi portant modification de la Loi de  
la taxe sur l'essence**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (c) of the *Gasoline Tax Act* is repealed and the following substituted:**

- (c) “collector” means a person designated as a collector by the Minister under section 3.

(2) Section 1 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1, 1988, chapter 66, section 1 and 1989, chapter 45, sections 1 and 5, is further amended by adding the following clauses:

- (cc) “debtor” means a person to whom a collector, registered importer, wholesaler or retailer has sold gasoline, aviation fuel or propane;
- (cd) “driver” means the person having care and control of a motor vehicle whether that motor vehicle is in motion or not;
- (ce) “exporter” means a person who takes or causes to be taken out of Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk and may be accountable for the tax on the gasoline, aviation fuel or propane to the jurisdiction receiving the gasoline, aviation fuel or propane;
- (ea) “interjurisdictional transporter” means the registered owner of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the owner or operator of a pipeline facility who engages in the transportation or transfer of gasoline in bulk, aviation fuel in bulk or propane in bulk and who operates for the purposes,
- (i) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
  - (ii) one or more vessels under the *Canada Shipping Act*,
  - (iii) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or
  - (iv) a pipeline facility inside and outside Ontario;

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 (1) L'alinéa 1 (c) de la loi intitulée *Gasoline Tax Act* («*Loi de la taxe sur l'essence*») est abrogé et remplacé par ce qui suit :**

(2) L'article 1 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 24 des Lois de l'Ontario de 1985, par l'article 1 du chapitre 66 des Lois de l'Ontario de 1988 et par les articles 1 et 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des alinéas suivants :

- (fa) "motor vehicle" means a machine operated, propelled or driven otherwise than by muscular power;
- (fb) "operator" means, when used with reference to a motor vehicle other than a motor vehicle designed for use as a vessel, an aircraft or railway equipment operated on rails,
  - (i) the registered owner, if the motor vehicle is not leased to another person or, if leased, is leased to another person for not more than thirty consecutive days,
  - (ii) the lessee, if the motor vehicle is leased for more than thirty consecutive days, unless the lessee has entered into a written agreement with the lessor in which the lessor agrees to account for the tax imposed by the *Fuel Tax Act, 1981* on all fuel used by the motor vehicle during the term of the lease, or
  - (iii) the lessor, if the lessor has entered into a written agreement in which the lessor agrees to account for and remit to the Treasurer the tax imposed by the *Fuel Tax Act, 1981* on fuel used by the motor vehicle during the term of the lease;
- (ha) "registered importer" means an importer to whom a certificate of registration has been issued under this Act;
- (hb) "registered owner", in relation to a motor vehicle or trailer, means the person to whom a numbered permit for the motor vehicle or trailer has been issued under the *Highway Traffic Act* or would have been issued but for a reciprocal agreement between Ontario and another jurisdiction;
- (ja) "tax" includes all penalties and interest assessed under this Act;
- (kb) "vessel" means a ship, boat, barge or watercraft that is designed to move in or through water, but does not include an aircraft capable of operating on water or a motor vehicle moving on ice;
- (kc) "wholesale", in relation to the sale of gasoline, aviation fuel or propane, means for the purpose of resale.

(3) Section 1 of the Act is further amended by adding the following subsection:

Interjurisdictional transporter

(2) If a registered owner referred to in clause (1) (hb) has leased a motor vehicle for more than thirty consecutive days, the clause shall be read, in respect of the registered owner and the motor vehicle, by substituting "lessee" for "registered owner".

2.—(1) Subsection 2 (1) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 45, section 2, is repealed and the following substituted:

Tax on Gasoline

(1) Every purchaser of gasoline shall pay to the Treasurer a tax at the rate of,

- (a) 13.0 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1992; and

(3) L'article 1 de la Loi est modifié en outre par adjonction du paragraphe suivant :

2 (1) Le paragraphe 2 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

- (b) 14.7 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1991.

(2) Subsection 2 (2) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1989, chapter 45, section 2, is repealed and the following substituted:

Tax on aviation fuel

(2) Every purchaser of aviation fuel shall pay to the Treasurer a tax at the rate of,

- (a) 2.4 cents per litre on all aviation fuel purchased by, or delivered to, the purchaser before the 1st day of January, 1992; and
- (b) 2.7 cents per litre on all aviation fuel purchased by, or delivered to, the purchaser after the 31st day of December, 1991.

(3) Subsection 2 (4) of the Act, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, is further amended by adding at the end "and, for the purposes of the assessment and collection of the payment, the person receiving the payment as or in lieu of the tax payable under this Act is deemed to be a collector".

(4) Section 2 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 2, 1988, chapter 66, section 2 and 1989, chapter 45, sections 2 and 5, is further amended by adding the following subsections:

Liability for tax

(5) Every person who is liable for the tax imposed by this Act remains liable for the tax until the person has paid it.

Offence

(6) Every person who knowingly fails to pay the tax imposed by this section when required by this Act to do so is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than double the amount of the tax payable by the person.

Idem

(7) Every person who fails to comply with subsection (3) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$50,000.

3. Section 3 of the Act, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, is repealed and the following substituted:

Designation of collector

3.—(1) The Minister may designate in writing as a collector a person whose sales of gasoline, aviation fuel or propane at wholesale during the twelve-month period before the designation are not less than 51 per cent by volume of the person's total sales of gasoline, aviation fuel or propane.

Conditions and limitations

(2) The Minister may attach such reasonable conditions and limitations to a designation as a collector as the Minister considers appropriate.

Termination of designation

(3) The Minister may terminate a person's designation as a collector at the end of any twelve-month period during which the person's sales of gasoline, aviation fuel or propane at wholesale

(2) Le paragraphe 2 (2) de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 24 des Lois de l'Ontario de 1985 et modifié par l'article 2 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(3) Le paragraphe 2 (4) de la Loi, tel qu'il est modifié par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction de «and, for the purposes of the assessment and collection of the payment, the person receiving the payment as or in lieu of the tax payable under this Act is deemed to be a collector».

(4) L'article 2 de la Loi, tel qu'il est modifié par l'article 2 du chapitre 24 des Lois de l'Ontario de 1985, par l'article 2 du chapitre 66 des Lois de l'Ontario de 1988 et par les articles 2 et 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié en outre par adjonction des paragraphes suivants :

3 L'article 3 de la Loi, tel qu'il est modifié par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :



are less than 51 per cent by volume of the person's total sales of gasoline, aviation fuel or propane.

Idem	(4) The Minister may terminate a person's designation as a collector if the person has not sold or delivered gasoline, aviation fuel or propane for resale in Ontario for a period of six consecutive months.
Notice of termination	(5) The termination of a designation under subsection (3) or (4) is effective fourteen days after the mailing by the Minister of notice of the termination.
Collector is agent	(6) Every collector is an agent of the Minister for the purpose of collecting and remitting the tax imposed by this Act.
Agreements	(7) For the purpose of ensuring and facilitating collection of the tax under this Act, the Minister may enter into such arrangements and agreements with a collector as the Minister considers appropriate.
Collection of tax by collector	<b>3a.</b> —(1) Every collector shall collect the tax imposed by this Act from every person to whom the collector sells gasoline, aviation fuel or propane.
Exception	(2) A collector shall not collect tax on the sale of gasoline, aviation fuel or propane to another collector who is not a purchaser in respect of the gasoline, aviation fuel or propane.
Remittance of tax	<b>3b.</b> —(1) Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collected by the collector.
Idem	(2) Every collector shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax imposed by this Act on gasoline, aviation fuel or propane in respect of which the collector is the purchaser.
Collection of tax by retailer	<b>3c.</b> —(1) A retailer who sells or delivers gasoline, aviation fuel or propane to a purchaser shall collect from the purchaser the tax imposed by this Act.
Retailer is agent	(2) For the purposes of collecting the tax, the retailer is an agent of the Minister.
Payment by retailer	<b>3d.</b> —(1) Every retailer who purchases gasoline, aviation fuel or propane from a wholesaler shall pay to the wholesaler the tax imposed by this Act on the purchaser.
Collection by wholesaler	(2) Every wholesaler who sells gasoline, aviation fuel or propane to a retailer shall collect from the retail dealer the tax imposed by this Act on the purchaser.
Wholesaler is agent	(3) For the purposes of collecting the tax, the wholesaler is an agent of the Minister.
Exception	(4) Subsections (1) and (2) do not apply in respect of a retailer who is a collector or an importer.
Remittance of tax by wholesaler	<b>3e.</b> —(1) Every wholesaler who collects tax under section 3d shall pay the tax to the collector or importer from whom the wholesaler purchased the fuel.
Exception	(2) Subsection (1) does not apply to a wholesaler who is a collector or importer.
Offence, failure to collect tax	<b>3f.</b> Every collector, importer, wholesaler or retailer who refuses or neglects to collect tax in accordance with this Act is guilty of an offence and on conviction is liable to a fine in an amount equal to three times the amount of tax that the collector, importer, wholesaler or retailer should have collected in accordance with this Act.

Eligibility as  
member of  
Legislative  
Assembly

**3g.** No person is ineligible as a member of the Legislative Assembly of Ontario by reason only of being a collector under this Act.

Assignment  
of book  
debts

**3h.**—(1) An assignment of book debts by a collector or registered importer does not include the portion of the book debts that the collector or importer as agent of the Minister charged as tax to the person to whom the collector or registered importer sold gasoline, aviation fuel or propane.

Duty of  
assignee

(2) An assignee or other person who collects the book debts shall collect, remit and account under this Act and the regulations for the portion of the book debts mentioned in subsection (1).

Assignee  
deemed  
collector

(3) For the purposes of subsection (2), an assignee or other person who collects the book debts of the collector or registered importer shall be deemed to be a collector under this Act.

Interpreta-  
tion

(4) For the purposes of this section, an assignment of book debts includes a specific or general assignment and any other disposition of the present or future right to collect book debts.

**4.**—(1) Subsections 4 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 45, section 3, are repealed.

**4** (1) Les paragraphes 4 (1) et (2) de la Loi, tels qu'ils sont adoptés de nouveau par l'article 3 du chapitre 45 des Lois de l'Ontario de 1989, sont abrogés.

(2) Subsection 4 (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 45, section 3, is amended by striking out "collector" in the third line and substituting "registered importer".

(2) Le paragraphe 4 (3) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 45 des Lois de l'Ontario de 1989, est modifié par substitution, à «collector» à la troisième ligne, de «registered importer».

**5.** The Act is amended by adding the following sections:

**5** La Loi est modifiée par adjonction des articles suivants :

Registered  
importer

**4a.**—(1) No person shall bring or cause to be brought into Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk unless the person is registered by the Minister as an importer.

Application  
of subs. (1)

(2) Subsection (1) does not apply to an importer who has remitted security in respect of the tax imposed by this Act (subsection 4 (3)) and filed a return (subsection 4 (5)) in respect of the gasoline, aviation fuel or propane imported.

Exemption

(3) A registered importer is exempt from the application of subsection 4 (3) (remittance of security) and subsection 4 (5) (delivery of return).

Application

(4) Subject to section 7, every person who imports gasoline in bulk, aviation fuel in bulk or propane in bulk is entitled to be registered as an importer and to be issued a certificate of registration upon application in the prescribed form.

Offence,  
unregistered  
importer

(5) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000, plus an amount equal to three times the tax that would be payable under section 2 on the gasoline, aviation fuel or propane imported by the person were such gasoline, aviation fuel or propane sold to a purchaser in Ontario.

Offence,  
condition or  
limitation

(6) Every registered importer who contravenes a condition or limitation attached to the certificate of registration issued to the importer is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000.

Export of  
gasoline,  
aviation fuel  
or propane

**4b.**—(1) No person shall take or cause to be taken out of Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk unless the person is registered by the Minister as an exporter.

Application	(2) Subject to section 7, every person who proposes to take or cause to be taken out of Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk is entitled to be registered as an exporter and to be issued a certificate of registration upon application in the prescribed form.
Conditions and limitations	<b>4c.</b> —(1) The Minister may attach such reasonable conditions and limitations to a registration as an importer or exporter as the Minister considers appropriate.
Application of subs. (1)	(2) Subsection (1) applies in respect of a proposed registration and in respect of an existing registration.
Collection of tax by registered importer	<b>4d.</b> —(1) Every registered importer shall collect the tax imposed by this Act from every person to whom the registered importer sells gasoline, aviation fuel or propane.
Remittance to Treasurer	(2) Every registered importer shall remit to the Treasurer, at the prescribed times and in the prescribed manner, the tax collectable by the registered importer under this Act.
Payment to Treasurer	(3) Every registered importer shall pay to the Treasurer the tax imposed by this Act upon the registered importer as a purchaser.
Exception	(4) Subsection (1) does not apply to require a registered importer to collect the tax from a collector in respect of gasoline, aviation fuel or propane if the collector is not a purchaser of the gasoline, aviation fuel or propane.
Registered importer is agent	(5) For the purposes of collecting the tax imposed by this Act, every registered importer is an agent of the Minister.
Importer deemed registered	(6) Every importer who complies with subsection 4 (3) shall be deemed to be a registered importer for the purpose of collecting the tax payable on the gasoline, aviation fuel or propane imported into Ontario from outside Canada.
Notice of change, importer or exporter	<b>4e.</b> —(1) Every person who is an importer or exporter shall notify the Minister in writing of, <ul style="list-style-type: none"> <li>(a) any change in the name of the importer or exporter;</li> <li>(b) any change in the business address of the importer or exporter;</li> <li>(c) any change in the nature of the business of the importer or exporter; or</li> <li>(d) the termination of the business of the importer or exporter.</li> </ul>
Transmittal	(2) The notice required by subsection (1) shall be transmitted to the Minister forthwith upon the happening of the change or termination.
Certificate to be carried	<b>4f.</b> —(1) Every driver of a motor vehicle operated by or on behalf of an interjurisdictional transporter who is an importer or exporter registered under this Act shall carry the original or a notarial copy of the certificate of registration issued to the importer or exporter and shall surrender the certificate or notarial copy upon demand by a person who is a member of a class prescribed for the purposes of this section.
Delivery of copy to interjurisdictional transporter	(2) An importer or exporter registered under this Act shall provide to each interjurisdictional transporter that the importer or exporter engages to transport gasoline, aviation fuel or propane a notarial copy of the certificate of registration issued under this Act to the importer or exporter.
Security by interjurisdictional transporter	<b>4g.</b> —(1) Every interjurisdictional transporter who transports gasoline, aviation fuel or propane into Ontario on behalf of an importer shall remit on behalf of the importer the security, tax



and return required by subsections 4 (3) and (5), and, for the purposes of those subsections, the interjurisdictional transporter shall be deemed to be the importer.

Exception

(2) Subsection (1) does not apply if the importer is a registered importer and has delivered to the interjurisdictional transporter a notarial copy of the certificate of registration issued to the importer under this Act.

Export of fuel

**4h.**—(1) Every exporter shall transmit to the Minister the information prescribed by the Minister, in the form and manner prescribed by the Minister, in respect of gasoline, aviation fuel or propane that the exporter intends to take or cause to be taken out of Ontario.

Return re exports

(2) Every exporter shall transmit to the Minister the information prescribed by the Minister, in the form and manner prescribed by the Minister, in respect of gasoline, aviation fuel or propane that the exporter delivers or causes to be delivered to a person outside Ontario.

Evidence of export and delivery

(3) Every exporter who delivers or causes to be delivered gasoline, aviation fuel or propane to a person outside Ontario shall provide to the Minister evidence that the gasoline, aviation fuel or propane has been taken out of Ontario and of the delivery of the fuel outside Ontario.

Penalty

(4) Every exporter who fails to comply with subsection (1), (2) or (3) shall pay to the Treasurer a penalty equal to the amount of tax that would be payable under this Act if the gasoline, aviation fuel or propane were purchased by or delivered to a purchaser in Ontario.

Payment of penalty

(5) The penalty under subsection (4) is payable when it is assessed.

Offence, unregistered exporter

**4i.** Every person who contravenes subsection 4b (1) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$10,000, plus an amount equal to three times the tax that would be payable under section 2 if the gasoline, aviation fuel or propane were sold to a purchaser in Ontario.

Offence, exporter

**4j.** Every exporter who contravenes a condition or limitation attached to the exporter's registration by the Minister is guilty of an offence and on conviction is liable, in addition to any other penalty under this Act, to a fine of not less than \$200 and not more than \$10,000.

Offence, purchase from unregistered importer

**4k.** Every person who knowingly purchases or receives gasoline, aviation fuel or propane from a person who is not a registered importer is guilty of an offence and on conviction is liable to a fine in an amount not less than the tax payable under this Act on the gasoline, aviation fuel or propane so purchased by the person.

**6.** Section 5, sections 6 and 7, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, section 8, as amended by 1989, chapter 72, section 86, section 9 and section 10, as amended by 1989, chapter 45, section 5, of the Act are repealed and the following substituted:

**6** L'article 5 de la Loi, les articles 6 et 7, tels qu'ils sont modifiés par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, l'article 8, tel qu'il est modifié par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, l'article 9 et l'article 10, tels qu'ils sont modifiés par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, sont abrogés et remplacés par ce qui suit :

Interjurisdictional transporter

**5.**—(1) No person shall act as an interjurisdictional transporter unless the person is registered by the Minister as an interjurisdictional transporter.



Application	(2) Subject to section 7, every person who acts or proposes to act as an interjurisdictional transporter is entitled to be registered as an interjurisdictional transporter and to be issued a certificate of registration upon application in the prescribed form.
Conditions and limitations	(3) The Minister may attach such reasonable conditions and limitations to a registration as an interjurisdictional transporter as the Minister considers appropriate.
Application of subs. (3)	(4) Subsection (3) applies in respect of a proposed registration and in respect of an existing registration.
Uniform manifest form	(5) Every interjurisdictional transporter shall complete a uniform manifest form in the form provided by the Minister in respect of each shipment of gasoline in bulk, aviation fuel in bulk or propane in bulk transported or transferred by the interjurisdictional transporter into or out of Ontario.
Transporter to obtain certificate	(6) Before undertaking to transport or transfer gasoline in bulk, aviation fuel in bulk or propane in bulk into or out of Ontario for a registered importer or registered exporter, an interjurisdictional transporter shall obtain a notarial copy of the certificate of registration under this Act of the importer or exporter.
Possession of documents	<p>(7) Every interjurisdictional transporter shall keep in the possession of the driver of the motor vehicle or of the master of the vessel in which the interjurisdictional transporter is transporting or transferring gasoline in bulk, aviation fuel in bulk or propane in bulk,</p> <ul style="list-style-type: none"><li>(a) the interjurisdictional transporter's certificate of registration issued under this Act;</li><li>(b) the completed uniform manifest form in accordance with subsection (5);</li><li>(c) if the gasoline in bulk, aviation fuel in bulk or propane in bulk is being transported or transferred for a registered importer or a registered exporter, the notarial copy of the certificate of registration that the registered importer or registered exporter is required to provide under this Act; and</li><li>(d) evidence of payment, if any, made in accordance with subsection 4 (3).</li></ul>
Examination	(8) Any person who is authorized for the purpose by the Minister and who has reasonable and probable grounds to believe that an interjurisdictional transporter does not hold a certificate of registration or is transporting or transferring gasoline, aviation fuel or propane on behalf of an importer or exporter who does not hold a certificate of registration issued under this Act may, without a warrant, stop and detain any vehicle or vessel being operated in Ontario by the interjurisdictional transporter and require production of the documents specified in subsection (7).
Seizure	(9) If, following a detention under subsection (8), the driver of the vehicle or master of the vessel fails to produce the documents specified in subsection (7), the person authorized for the purpose by the Minister may, without a warrant and subject to subsections (10), (11), (12) and (14), seize, impound, hold and dispose of the gasoline, aviation fuel or propane, unless the interjurisdictional transporter complies with subsection (11).
No seizure, etc.	(10) Gasoline, aviation fuel or propane is not subject to holding, seizure, impounding or disposal under this section if the driver of the motor vehicle or the master of the vessel in which the gasoline, aviation fuel or propane is transported or transferred provides proof satisfactory to the person authorized for the purpose by the Minister,

- (a) of the quantity and the destination of the gasoline, aviation fuel or propane being transported or transferred;
- (b) that the driver or master holds a certificate of registration or a notarial copy of a certificate of registration issued under this section;
- (c) if the gasoline, aviation fuel or propane is being transported or transferred for an importer or exporter, that the importer or exporter holds a valid certificate of registration issued under this Act; and
- (d) if tax or security is payable in respect of the gasoline, aviation fuel or propane being transported or transferred, that the tax or security has been paid.

**Forfeiture**

(11) Gasoline, aviation fuel or propane seized under subsection (9) is forfeited to Her Majesty to be disposed of as the Minister directs unless, within thirty days following the seizure, the person from whom the gasoline, aviation fuel or propane is seized, or the owner thereof, pays to the Treasurer an amount, as a penalty, equal to the tax that would be payable under section 2 if the gasoline, aviation fuel or propane were sold or delivered to a purchaser in Ontario.

**Application**

(12) The driver of the motor vehicle or the master of the vessel from which gasoline, aviation fuel or propane is seized under this section, or the owner of the fuel, may bring an application in the Ontario Court (General Division) to establish the right to possession of the gasoline, aviation fuel or propane.

**Time limit**

(13) An application under subsection (12) is not valid unless made within thirty days after the date on which the gasoline, aviation fuel or propane is seized.

**Standards**

(14) For the purposes of an application to the Ontario Court (General Division), the driver, the master or the owner has the right to possession of the gasoline, aviation fuel or propane if, when it is seized,

- (a) the driver or master holds a certificate of registration or a notarial copy of a certificate of registration issued under this section;
- (b) the gasoline, aviation fuel or propane is being transported or transferred on behalf of an importer or exporter who holds a certificate of registration issued under this Act;
- (c) the tax or security payable under this Act has been paid; and
- (d) if the driver or master does not hold a uniform manifest form completed in accordance with this Act and the regulations, the driver, the master or the owner delivers the form so completed to the Minister within five days of the date when the gasoline, aviation fuel or propane is seized.

**Order**

(15) The court, if satisfied that the driver, master or owner has the right to possession of the gasoline, aviation fuel or propane, may order that it be returned to the driver, master or owner or that the proceeds of the sale of it be paid to the owner.

**Disposal pending final disposition**

(16) If the application is not finally disposed of within sixty days after the date on which it is made, the Minister may dispose of the gasoline, aviation fuel or propane and retain the proceeds of the sale pending final disposition of the application.

**Forfeiture**

(17) If the application is dismissed and any appeal is dismissed or the time for appeal has expired, the gasoline, aviation fuel or propane is forfeited to Her Majesty in right of Ontario to be disposed of as the Minister directs.

Proceeds of  
sale

(18) If a sale is directed under subsection (11) or (17), or if the proceeds of a sale are retained under subsection (16) and the application is dismissed, the proceeds of the sale remaining after payment of the costs incurred by the Minister in seizing, storing and disposing of the fuel and after payment of the penalty owing under subsection (11) shall be paid to the person from whom the fuel was seized or to the person who owned the fuel before it was forfeited.

Offence

(19) Every interjurisdictional transporter transporting or transferring gasoline in bulk, aviation fuel in bulk or propane in bulk into or out of Ontario who fails to produce any of the documents required to be kept in the possession of the driver or the master under subsection (7) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000 for each document not produced.

Information

6.—(1) The Minister may demand information or additional information from a person for the purpose of evaluating the suitability of the person to be a collector, registered importer, registered exporter or interjurisdictional transporter under this Act or to ascertain the amount of security to be furnished by the person in accordance with subsection (2) and the person shall deliver to the Minister the information or additional information required by the Minister within the time specified in the Minister's demand.

Security

(2) The Minister shall demand security in a form acceptable to the Minister from,

- (a) every collector, in an amount not less than the equivalent of an average three months tax collectable and payable by the collector calculated for the twelve-month period preceding the date of the Minister's demand or \$1,000,000, whichever is greater;
- (b) every registered importer, in an amount not less than the equivalent of an average three months tax collectable and payable by the registered importer calculated for the twelve-month period preceding the date of the Minister's demand or \$500,000, whichever is greater; and
- (c) every registered exporter, in an amount specified by the Minister upon the forwarding to the Minister of information required in respect of gasoline, aviation fuel or propane to be exported.

Idem

(3) Every person shall, upon receipt of a demand under subsection (2), forthwith furnish the security to the Minister.

Idem

(4) The Minister may at any time increase or decrease the amount of security furnished or to be furnished under subsection (2).

Refusal to  
designate or  
register

7.—(1) The Minister may refuse to designate or register any person under this Act if the person fails to satisfy the Minister that the person has the ability to perform the conditions or observe the limitations that the Minister proposes to attach to the designation or registration.

Idem

(2) The Minister may refuse to designate or register any person under this Act if the person fails to furnish security in accordance with section 6.

Suspension  
or cancella-  
tion

(3) The Minister may suspend or cancel the designation or registration of any person under this Act if the person contravenes or permits the contravention of any provision of this Act or the regulations or a condition or limitation attached to the designation or registration.



Hearing	(4) If the Minister proposes to act under subsection (1), (2) or (3), the Minister shall afford the person the opportunity to appear before the Minister to show cause why the Minister should not so act.
Immediate suspension	(5) Despite subsection (4), the Minister may suspend forthwith the designation or registration of any person under this Act if the person fails to deliver a return required by this Act or the regulations or fails to remit tax collectable or payable by the person under this Act.
Notice of suspension	(6) A suspension forthwith shall be by notice in writing with written reasons, and shall state that the person may, by notice in writing served upon the Minister within 180 days after service of the notice of suspension, require a hearing by the Minister to determine whether the suspension should be rescinded, rescinded subject to conditions, or whether the designation or registration should be cancelled, and the person may so require the hearing.
Service of notice	(7) A notice under this section may be served personally or by registered mail addressed to the person to whom notice is to be given at the person's last known address.
Idem	(8) Service by registered mail of a notice under this section shall be deemed to have been made on the fifth day after the day of mailing unless the person establishes that, though acting in good faith, the person did not receive the notice or did not receive it until a later date.
Conviction for fraud or tax evasion	(9) The Minister may refuse to designate or register any person if the person or an officer, director, shareholder or partner of the person has been convicted of the offence of fraud or tax evasion within five years of the date of the application for the designation or registration, and subsection (4) does not apply in respect of the refusal.
Returns	<b>8.—</b> (1) The Minister may demand that a collector, importer, exporter or interjurisdictional transporter deliver to the Minister a return in such form as the Minister requires for the purpose of administering this Act and the collector, importer, exporter or interjurisdictional transporter shall deliver the completed return to the Minister on or before the day designated in the demand.
Idem	(2) Every collector, importer, exporter or interjurisdictional transporter shall deliver to the Minister, without notice or demand, the returns required by this Act or the regulations at the prescribed times and in the prescribed manner.
Certificate	(3) Every person required to deliver a return under this Act shall verify the return by a certificate signed by the person or by the president, resident manager or representative in Ontario stating that the financial and other statements of information included in or attached to the return are in agreement with the books of the person and exhibit correctly and completely all information for the period covered by the return.
Penalty	(4) Every person who fails to deliver a return in accordance with subsection (1) or (2) shall pay a penalty, when assessed therefor, of not less than 25 per cent of the tax collectable and payable by the person, to a maximum of \$50,000 in respect of each return.
Offence	(5) Every person who fails to complete the information required in a return to be delivered to the Minister under subsection (1) or (2) is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000.
Time	(6) The Minister may enlarge the time for delivering a return before or after the expiry of the time.



Declarations  
and affida-  
vits

(7) Declarations and affidavits in connection with returns under this Act may be taken before any person having authority to administer an oath, or before any person specially authorized for the purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge a fee therefor.

Transmittal  
of tax

**9.**—(1) Every collector or importer shall, with a return required under section 8, transmit the amount of tax payable or payable and collectable by the collector or importer.

Deficiency

(2) A collector or importer who transmits less than the amount of tax payable or payable and collectable by the collector or importer shall pay to the Treasurer interest at the prescribed rate upon the deficiency from the date of default until the date the deficiency is transmitted to the Treasurer.

Exception

(3) Despite subsection (1), a collector may retain the amount of a refund for which the collector has made application under the regulations until the refund for which the collector has applied is, in whole or in part, approved or refused by the Minister and notification thereof is sent to the collector.

Application  
of subs. (3)

(4) Subsection (3) does not apply unless, in a return delivered in accordance with this Act and the regulations, the collector shows that tax under this Act is payable by the collector with respect to the collector's use of gasoline and the collector applies for the refund when the return is delivered.

Disallowance  
of refund

**9a.**—(1) A collector who has retained the amount of a refund applied for under this Act and who receives a statement of disallowance of the refund in the prescribed form shall remit to the Treasurer the amount retained and disallowed, together with interest thereon at the prescribed rate for the period during which the amount was retained by the collector.

Transmittal  
of amount

(2) The collector shall remit the disallowed amount with the collector's next return under this Act or on or before the date or within the period of time specified in the statement of disallowance.

Application  
of subs. (1)

(3) Subsection (1) applies despite an objection to or appeal of the disallowance.

Offence,  
failure to  
pay or remit

**9b.** Every person who is required to pay over to a collector or importer or to remit to the Treasurer the tax imposed by this Act and who fails to pay over or remit the tax is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to 25 per cent of the tax and not more than an amount equal to twice the amount of the tax that should have been paid over or remitted.

Examination  
of motor  
vehicle

**10.**—(1) For the purpose of ascertaining whether tax imposed by this Act has been paid on gasoline, aviation fuel or propane, a person authorized for the purpose by the Minister may, without warrant, if the person has reasonable and probable grounds to believe that the motor vehicle contains evidence of a contravention of this Act, stop and detain any motor vehicle in Ontario capable of transporting gasoline in bulk, aviation fuel in bulk or propane in bulk and may,

(a) examine and take samples of the cargo being transported in the storage tank of the motor vehicle; and

(b) examine the documents in the custody of the driver related to liability for tax on the gasoline, aviation fuel or propane, and to the ownership of the motor vehicle and to the operator of the motor vehicle.

Offence

(2) Every person is guilty of an offence who,

- (a) fails to comply with a stop sign set up by a person authorized under this Act to examine a motor vehicle;
- (b) fails to obey a lawful signal or request by a person authorized under this Act to examine a motor vehicle;
- (c) refuses to permit an examination of a motor vehicle or of a document mentioned in subsection (1); or
- (d) refuses or wilfully neglects to answer a reasonable question put to the person by a person authorized to examine the motor vehicle.

Penalty

- (3) Every person who is guilty of an offence under subsection (2) is liable upon conviction to a fine of not less than \$200 and not more than \$1,000.

**7.—(1) Subsection 11 (4) of the Act is repealed and the following substituted:**

**7. (1) Le paragraphe 11 (4) de la Loi est abrogé et remplacé par ce qui suit :**

Assessment

- (4) The Minister may assess or reassess tax payable by a purchaser under this Act within three years from the date the tax becomes payable.

Idem

- (4a) Despite subsection (4), the Minister may assess or reassess tax payable by a purchaser under this Act at any time the Minister considers reasonable if the Minister establishes that the purchaser has made a misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed fraud, in making a return or in supplying or omitting to disclose information in respect of tax under this Act.

(2) Subsection 11 (5) of the Act is amended by inserting after "wholesaler" in the third line "importer, exporter, interjurisdictional transporter".

(2) Le paragraphe 11 (5) de la Loi est modifié par insertion, après «wholesaler» à la troisième ligne, de «importer, exporter, interjurisdictional transporter».

(3) Subsection 11 (6) of the Act is amended by striking out "or (5)" in the third line and substituting "(5), (11) or (14)".

(3) Le paragraphe 11 (6) de la Loi est modifié par substitution, à «or (5)» à la troisième ligne, de «(5), (11) or (14)».

(4) Subsection 11 (9) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 24, section 3, is repealed and the following substituted:

(4) Le paragraphe 11 (9) de la Loi, tel qu'il est adopté de nouveau par l'article 3 du chapitre 24 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :

Assessment  
valid and  
binding

- (9) Subject to being vacated or varied on an objection or appeal and subject to any re-assessment, an assessment or disallowance under this section shall be deemed to be valid and binding, despite any error, defect or omission therein or in any proceeding under this Act related thereto and, for the purposes of collection or recovery, the amount assessed shall be deemed to be tax owing under this Act and be conclusively established as a debt owing to Her Majesty in right of Ontario.

(5) Section 11 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 3, is further amended by adding the following subsections:

(5) L'article 11 de la Loi, tel qu'il est modifié par l'article 3 du chapitre 24 des Lois de l'Ontario de 1985, est modifié en outre par adjonction des paragraphes suivants :

Assessment  
re refund

- (11) The Minister may assess under this section any person who has received a refund under this Act or the regulations to which the person is not entitled.

Amount of  
assessment  
for refund

- (12) An assessment under subsection (11) shall be for the amount of the refund to which the person was not entitled and interest thereon at the prescribed rate from the date of payment of the refund.



Statement of  
ground of  
assessment  
for refund

(13) An assessment under subsection (11) shall be accompanied by a brief statement in writing of the ground upon which the person is not entitled to the amount specified in the assessment.

Penalty for  
failure to  
collect tax

(14) Every person who fails to collect tax that the person is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax the person failed to collect, and the Minister may make the assessment.

Limitation

(15) The Minister shall not assess a penalty under subsection (14) with respect to tax that should have been collected more than three years before the date of the proposed assessment.

Idem

(16) Despite subsection (15), the Minister may make an assessment under subsection (14) at any time if the Minister establishes that the collector, or any person on behalf of the collector, has made a misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed fraud, in making a return or in supplying or omitting to disclose information in respect of the tax.

**8.—(1) Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 4, is repealed and the following substituted:**

**8 (1) Le paragraphe 13 (1) de la Loi, tel qu'il est modifié par l'article 4 du chapitre 24 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :**

Objection to  
assessment  
or disallow-  
ance of  
refund

(1) A person who is assessed for tax or a penalty or has paid a penalty under this Act or whose claim for a refund is disallowed under this Act is entitled to object to the assessment, payment or disallowance.

Notice of  
objection

(1a) An objection shall be made by notice of objection served on the Minister in duplicate in the prescribed form, setting out the reasons for the objection and all relevant facts, within 180 days from the date of the mailing of the notice of assessment or the statement of disallowance or of the payment of a penalty where no assessment has been made.

**(2) Subsection 13 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 4, is repealed and the following substituted:**

**(2) Le paragraphe 13 (3) de la Loi, tel qu'il est modifié par l'article 4 du chapitre 24 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :**

Reconsidera-  
tion

(3) Upon receipt of a notice of objection, the Minister shall with all due dispatch reconsider and vacate, confirm or vary the assessment, statement of disallowance or penalty or reassess, and shall give notice of the action by registered mail to the person who made the objection.

**9.—(1) Subsection 14 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 5, is repealed and the following substituted:**

**9 (1) Le paragraphe 14 (1) de la Loi, tel qu'il est modifié par l'article 5 du chapitre 24 des Lois de l'Ontario de 1985, est abrogé et remplacé par ce qui suit :**

Appeal

(1) After the Minister has given the notification required by subsection 13 (3), a person who has served notice of objection under section 13 may appeal to the Ontario Court (General Division) to have the assessment, statement of disallowance or penalty vacated, varied or reassessed, but no appeal under this section shall be commenced after the expiration of ninety days from the date notice was mailed to the person under subsection 13 (3).

**(2) Subsection 14 (8) of the Act is amended by inserting after "tax" in the second line "or penalty".**

**(2) Le paragraphe 14 (8) de la Loi est modifié par insertion, après «tax» à la deuxième ligne, de «or penalty».**

**10.—(1)** Subsection 15 (1) of the Act is amended by inserting after “importer” in the first line “exporter, interjurisdictional transporter”.

**(2)** Subsection 15 (2) of the Act is repealed and the following substituted:

Duty to  
keep records

(2) Every person required to keep business records and books of account under subsection (1) shall maintain every such record or book of account, as well as any other document necessary to verify the information in such record or book of account for a period of seven years following the end of the fiscal year, unless written permission for their disposal is received from the Minister.

**(3)** Section 15 of the Act is amended by adding the following subsections:

Invoice

(3) Every vendor shall inform every person to whom the vendor sells gasoline in bulk of the total price of the gasoline and shall deliver to the person an invoice containing the information prescribed by the Minister.

Liability for  
tax

(4) Every person who purchases gasoline in bulk, aviation fuel in bulk or propane in bulk from a vendor without obtaining an invoice containing the information required by subsection (3) remains liable for the tax collectable or payable under this Act in respect of the purchase until the tax is paid to a collector or to the Treasurer.

Application  
of subs. (4)

(5) Subsection (4) applies whether or not the vendor is an agent of the Minister.

Duty of  
retail  
purchaser

(6) Every person shall obtain from the vendor from whom the person purchases gasoline, aviation fuel or propane, other than gasoline in bulk, aviation fuel in bulk or propane in bulk, the total price of the gasoline, aviation fuel or propane and an invoice containing the information prescribed by the Minister.

Records  
required by  
Minister

(7) The Minister may require a person who fails to keep records and books of account in accordance with subsection (1) to keep the records and books of account specified by the Minister for such length of time as the Minister requires.

Offence

(8) Every person who fails to comply with a requirement by the Minister under subsection (7) is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default occurs or continues.

**11.—(1)** Clause 16 (1) (c) of the Act is amended by inserting after “wholesaler” wherever it occurs “exporter”.

**(2)** Clause 16 (1) (d) of the Act is repealed and the following substituted:

(d) take samples of the contents of any storage tank located on any business premises to determine the amount of any tax payable under this Act.

**(3)** Subsection 16 (2) of the Act is amended by inserting after “wholesaler” in the fourth line and in the fifth line in each case “exporter, interjurisdictional transporter”.

**10** (1) Le paragraphe 15 (1) de la Loi est modifié par insertion, après «importer» à la première ligne, de «exporter, interjurisdictional transporter».

**(2)** Le paragraphe 15 (2) de la Loi est abrogé et remplacé par ce qui suit :

**(3)** L'article 15 de la Loi est modifié par adjonction des paragraphes suivants :

**11** (1) L'alinéa 16 (1) (c) de la Loi est modifié par insertion, après «wholesaler» partout où il figure, de «exporter».

**(2)** L'alinéa 16 (1) (d) de la Loi est abrogé et remplacé par ce qui suit :

**(3)** Le paragraphe 16 (2) de la Loi est modifié par insertion, après «wholesaler» à la quatrième ligne et à la cinquième ligne, de «exporter, interjurisdictional transporter».



(4) Subsection 16 (5) of the Act is amended by striking out "purchaser or collector" in the tenth line and substituting "person".

(4) Le paragraphe 16 (5) de la Loi est modifié par substitution, à «purchaser or collector» à la dixième ligne, de «person».

(5) Section 16 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 6, is further amended by adding the following subsections:

(5) L'article 16 de la Loi, tel qu'il est modifié par l'article 6 du chapitre 24 des Lois de l'Ontario de 1985, est modifié en outre par adjonction des paragraphes suivants :

Offence

(10) Every person who contravenes this section or who fails to provide any information or make a return requested under this section is guilty of an offence and on conviction is liable to a fine of \$50 for each day during which the default occurs or continues.

Liability

(11) The Crown or any employee of the Crown or any person acting in the administration or enforcement of this Act is not liable for any damage to a screen, filter or other device installed in, on or about the intake of a storage tank and which impedes access to the storage tank by equipment required by and used by a person authorized by the Minister under this Act and the regulations to take samples of gasoline, aviation fuel or propane where the screen, filter or device is not removed or not removable by the person in charge of the tank at the time a sample of gasoline, aviation fuel or propane is to be taken or for any compensation to any person for any gasoline, aviation fuel or propane taken as a sample for the purposes of this Act or the regulations.

**12. Section 17 of the Act is repealed.**

**12 L'article 17 de la Loi est abrogé.**

**13. Section 19 of the Act is amended by adding the following subsections:**

**13 L'article 19 de la Loi est modifié par adjonction des paragraphes suivants :**

Limitation

(6) Subsections (1) to (5) are subject to the *Wages Act*.

Application to court

(7) The Minister may apply to the Ontario Court (General Division) for an order, and the court may make the order, requiring any person to comply with a requirement under this section to remit money that the person has failed, without reasonable excuse, to remit to the Treasurer.

**14.—(1) Subsection 20 (1) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 72, section 78, is repealed and the following substituted:**

**14 (1) Le paragraphe 20 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 78 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Certificate as to tax owing

(1) For the purposes of a prosecution under section 3f, the Minister shall determine the amount of tax from such information as is available to the Minister and shall issue a certificate as to the amount, but, except where the Minister considers that there has been evasion or attempted evasion of this Act, the Minister shall not take into account a period of more than three years before the date of issue of the certificate in determining the amount of tax referred to in the certificate.

**(2) Subsection 20 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 45, section 5, is repealed and the following substituted:**

**(2) Le paragraphe 20 (2) de la Loi, tel qu'il est modifié par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Proof

(2) In any prosecution under section 3f, a certificate signed by the Minister or the Deputy Minister of Revenue under subsection (1) is proof, in the absence of evidence to the contrary, of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without proof of appointment or signature.

**(3) Subsection 20 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 86, is repealed.**

**(3) Le paragraphe 20 (3) de la Loi, tel qu'il est modifié par l'article 86 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé.**

(4) Subsections 20 (4) and (5) of the Act are repealed.

15. Section 21 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, sections 78 and 86, is repealed.

16. Section 22 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 78, is repealed and the following substituted:

Offence,  
false state-  
ments

22.—(1) Every person is guilty of an offence who,

- (a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of the records or books of account of a purchaser, retailer, wholesaler, collector, importer, exporter or interjurisdictional transporter;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, assents to or acquiesces in the omission to enter a material particular in records or books of account of a purchaser, retailer, wholesaler, collector, importer, exporter or interjurisdictional transporter;
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspires with another person to commit an offence described in clauses (a) to (d).

Penalty

(2) Every person who is guilty of an offence under subsection (1) is liable on conviction to a fine of not less than an amount equal to the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded and not more than triple the amount of the tax, or to imprisonment for a term of not more than two years, or to both.

17. Section 23 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 72, section 78, is repealed and the following substituted:

General  
penalty

23.—(1) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000.

Limitation  
period

(2) Proceedings in respect of an offence against this Act or the regulations shall not be commenced more than six years after the date when the offence occurred or is alleged to have occurred.

18. The Act is further amended by adding the following section:

Directors

24a.—(1) If a corporation has failed to collect tax under this Act or has collected tax and failed to remit the tax or has failed to pay any interest or penalty related thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty related thereto are jointly and severally liable, together with the corporation, to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

(4) Les paragraphes 20 (4) et (5) de la Loi sont abrogés.

15 L'article 21 de la Loi, tel qu'il est modifié par les articles 78 et 86 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé.

16 L'article 22 de la Loi, tel qu'il est modifié par l'article 78 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

17 L'article 23 de la Loi, tel qu'il est adopté de nouveau par l'article 78 du chapitre 72 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

18 La Loi est modifiée en outre par adjonction de l'article suivant :



- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 18 (1) (b) and the warrant has been returned by the sheriff unsatisfactory in whole or in part; or
  - (b) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.
- Prudent director (3) A director of a corporation is not liable for a failure described in subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would exercise in comparable circumstances.
- Assessment (4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with necessary modifications.
- Time limit (5) Any assessment under subsection (4) shall not be made more than two years after the person last ceased to be a director of the corporation.
- Execution (6) If execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.
- Idem (7) If a director of a corporation pays an amount in respect of a corporation's liability described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that Her Majesty in right of Ontario would be entitled to had the amount not been so paid and, where the warrant of execution has been issued under clause 18 (1) (b), the director is entitled to the assignment of the warrant of execution to the extent of the director's payment, and the Minister may make the assignment.
- Allocation by the Minister (8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and to any liability for tax payable under this Act including any penalty and interest relating thereto.

**19. Sections 25 and 26 of the Act are repealed.**

**19 Les articles 25 et 26 de la Loi sont abrogés.**

**20. Section 28 of the Act is repealed and the following substituted:**

**20 L'article 28 de la Loi est abrogé et remplacé par ce qui suit :**

Misrepresentation in application for refund

**28.** The Minister may deny all or part of the amount of a refund claimed under this Act, and may impose a penalty in an amount not more than the amount denied, if a material fact is misrepresented on or in connection with the application or in a document referred to in or delivered in support of the application.

**21.—(1) Subsection 30 (4) of the Act is repealed and the following substituted:**

**21 (1) Le paragraphe 30 (4) de la Loi est abrogé et remplacé par ce qui suit :**

Exception for administration

(4) A person employed by the Government of Ontario may, in the course of duty in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration and enforcement of any law, information

obtained by or on behalf of the Minister for the purposes of this Act; or

- (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal  
communica-  
tion

(4a) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of infor-  
mation

(4b) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

**(2) Subsection 30 (6) of the Act is repealed and the following substituted:**

Information

(6) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) information, records or things obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

**(3) Section 30 of the Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 9, is further amended by adding the following subsection:**

Offence

(8) Every person who contravenes this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

**22.—(1) Clauses 32 (1) (a) and (b) of the Act are repealed and the following substituted:**

- (a) providing for the furnishing of information relating to the sale or delivery of gasoline, aviation fuel or propane that is exempt from the tax imposed by this Act;
- (b) providing for the calculation and payment of interest on amounts paid in excess of the tax imposed by this Act and prescribing the rate of such interest.

**(2) Subsection 32 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 3, is further amended by adding the following clause:**

- (c) defining any word or expression used in this Act that has not already been defined in this Act.

**(3) Clause 32 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3, is amended by adding at the end "and prescribing the terms and conditions under which the refund may be made".**

**(2) Le paragraphe 30 (6) de la Loi est abrogé et remplacé par ce qui suit :**

**(3) L'article 30 de la Loi, tel qu'il est modifié par l'article 9 du chapitre 24 des Lois de l'Ontario de 1985, est modifié en outre par adjonction du paragraphe suivant :**

**22 (1) Les alinéas 32 (1) (a) et (b) de la Loi sont abrogés et remplacés par ce qui suit :**

**(2) Le paragraphe 32 (1) de la Loi, tel qu'il est modifié par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981, est modifié en outre par adjonction de l'alinéa suivant :**

**(3) L'alinéa 32 (2) (c) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981, est modifié par adjonction de «and prescribing the terms and conditions under which the refund may be made».**



(4) Subsection 32 (2) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 11, section 3 and amended by 1985, chapter 24, section 10 and 1989, chapter 45, section 5, is further amended by adding the following clauses:

- (e) prescribing information to be contained in certificates of registration or any class of them issued under this Act and attaching additional conditions to the use of such certificates or class;
- (f) prescribing conditions and restrictions affecting interjurisdictional transporters, importers and exporters;
- (g) prescribing information to be provided by exporters and the form and manner in which the information is to be provided for the purposes of section 4h;
- (h) prescribing records to be kept and information to be included on invoices for the purposes of section 15;
- (i) prescribing the method of collecting and remitting the tax imposed by this Act to be followed by collectors, registered importers, wholesalers and retailers.

(4) Le paragraphe 32 (2) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 11 des Lois de l'Ontario de 1981 et modifié par l'article 10 du chapitre 24 des Lois de l'Ontario de 1985 et par l'article 5 du chapitre 45 des Lois de l'Ontario de 1989, est modifié de nouveau par adjonction des alinéas suivants :

Commence-  
ment

**23.**—(1) Subject to subsection (2), this Act comes into force on the 1st day of January, 1992.

**23** (1) Sous réserve du paragraphe (2), la présente loi entre en vigueur le 1<sup>er</sup> janvier 1992.

Entrée en  
vigueur

Idem

(2) Subsections 2 (1) and (2) shall be deemed to have come into force on the 30th day of April, 1991.

(2) Les paragraphes 2 (1) et (2) sont réputés être entrés en vigueur le 30 avril 1991.

Idem

Short title

**24.** The short title of this Act is the *Gasoline Tax Amendment Act, 1991*.

**24** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi de la taxe sur l'essence*.

Titre abrégé

212 OF  
XB  
B56

Bill 87

Private Member's Bill

Projet de loi 87

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 87

**An Act to amend the Highway Traffic  
Act with respect to Volunteer Fire  
Fighters**

**Mrs. Fawcett**

1st Reading      May 1st, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 87

**Loi modifiant le Code de la route  
relativement aux pompiers auxiliaires**

**Mme Fawcett**

1<sup>re</sup> lecture      1 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The purpose of the Bill is to authorize the issuance of special licence plates to motor vehicle owners or lessees who are volunteer fire fighters. The plate would indicate that the vehicle belongs to a volunteer fire fighter.

The Bill amends only the English version of the *Highway Traffic Act*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi a pour objet d'autoriser la délivrance de plaques d'immatriculation spéciales aux propriétaires ou aux locataires de véhicules automobiles qui sont des pompiers auxiliaires. La plaque indique que le véhicule appartient à un pompier auxiliaire.

Le projet de loi ne modifie que la version anglaise du *Code de la route*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

**An Act to amend the Highway Traffic Act with respect to Volunteer Fire Fighters**

**Loi modifiant le Code de la route relativement aux pompiers auxiliaires**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 7 of the *Highway Traffic Act*, as amended by the Statutes of Ontario, 1982, chapter 15, section 2, 1983, chapter 63, section 2, 1985, chapter 13, section 1, 1988, chapter 44, section 1 and 1989, chapter 87, section 2, is further amended by adding the following subsections:

Volunteer  
fire fighters

(3f) On application by a person who meets the requirements of this Act and the regulations and who is a volunteer fire fighter under the *Fire Departments Act*, the Ministry may issue the person a number plate for any motor vehicle of which he or she is the owner or lessee that indicates that the vehicle belongs to a volunteer fire fighter.

Return

(3g) A person to whom a number plate has been issued under subsection (3f) shall return the plate to the Ministry forthwith upon ceasing to be a volunteer fire fighter under the *Fire Departments Act*.

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3.** The short title of this Act is the *Highway Traffic Amendment Act (Volunteer Fire Fighters)*, 1991.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant le Code de la route (pompiers auxiliaires)*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé





Bill 92

Private Member's Bill

Projet de loi 92

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 92

**An Act to protect the Economy of the  
Border Community of the Town of  
Fort Erie**

**Mr. Harris**

1st Reading      May 1st, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 92

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Fort Erie**

**M. Harris**



1<sup>re</sup> lecture      1<sup>er</sup> mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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de l'Assemblée législative par  
©l'Imprimeur de la Reine pour l'Ontario

#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Fort Erie by ensuring that government-imposed costs do not undermine the competitiveness of firms in Fort Erie.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville de Fort Erie en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de cette communauté.

**Bill 92****1991****Projet de loi 92****1991****An Act to protect the Economy of the  
Border Community of the Town of  
Fort Erie****Loi sur la protection économique de la  
communauté frontrière de la ville de  
Fort Erie**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Fort Erie.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Fort Erie.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Town of Fort Erie Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Fort Erie*.

Titre abrégé





Bill 93

Private Member's Bill

Projet de loi 93

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 93

**An Act to protect the Economy of the  
Border Community of the Town of  
Niagara-on-the-Lake**

**Mr. Harris**

1st Reading      May 1st, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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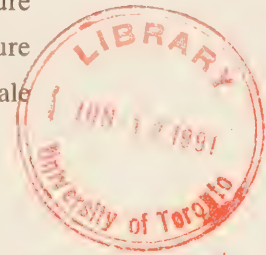
## Projet de loi 93

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Niagara-on-the-Lake**

**M. Harris**

1<sup>re</sup> lecture      1<sup>er</sup> mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Niagara-on-the-Lake by ensuring that government-imposed costs do not undermine the competitiveness of firms in Niagara-on-the-Lake.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville de Niagara-on-the-Lake en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de cette communauté.

Bill 93

1991

Projet de loi 93

1991

**An Act to protect the Economy of the  
Border Community of the Town of  
Niagara-on-the-Lake**

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Niagara-on-the-Lake**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Niagara-on-the-Lake.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Niagara-on-the-Lake.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Town of Niagara-on-the-Lake Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Niagara-on-the-Lake*.

Titre abrégé





Bill 94

Private Member's Bill

Projet de loi 94

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 94

**An Act to protect the Economy of the  
Border Community of the City of  
Niagara Falls**

**Mr. Harris**

1st Reading      May 2nd, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 94

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Niagara Falls**

**M. Harris**



1<sup>re</sup> lecture      2 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of Niagara Falls by ensuring that government-imposed costs do not undermine the competitiveness of firms in Niagara Falls.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de Niagara Falls en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de cette communauté.

Bill 94

1991

Projet de loi 94

1991

**An Act to protect the Economy of the  
Border Community of the City of  
Niagara Falls**

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Niagara Falls**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Niagara Falls.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Niagara Falls.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *City of Niagara Falls Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de Niagara Falls*.

Titre abrégé





Bill 95

Private Member's Bill

Projet de loi 95

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 95

**An Act to require the Minister of the  
Environment to discharge her  
responsibilities under section 15 (1) of  
the Ontario Water Resources Act to  
determine the Zebra Mussel content in  
Specified Waterways**

**Mr. Harris**

1st Reading      May 6th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 95

**Loi enjoignant au ministre de  
l'Environnement d'assumer ses  
responsabilités aux termes de l'article  
15 (1) de la Loi sur les ressources en eau  
de l'Ontario en déterminant la quantité  
de moules zébrées dans des cours d'eau  
désignés**

**M. Harris**



1<sup>re</sup> lecture      6 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to require the Minister of the Environment to discharge her responsibilities under section 15 (1) of the *Ontario Water Resources Act* to determine the zebra mussel content in specified waterways.

#### NOTE EXPLICATIVE

L'objet du projet de loi est d'enjoindre au ministre de l'Environnement d'assumer ses responsabilités aux termes de l'article 15 (1) de la *Loi sur les ressources en eau de l'Ontario* en déterminant la quantité de moules zébrées dans des cours d'eau désignés.

**An Act to require the Minister of the Environment to discharge her responsibilities under section 15 (1) of the Ontario Water Resources Act to determine the Zebra Mussel content in Specified Waterways**

**Loi enjoignant au ministre de l'Environnement d'assumer ses responsabilités aux termes de l'article 15 (1) de la Loi sur les ressources en eau de l'Ontario en déterminant la quantité de moules zébrées dans des cours d'eau désignés**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Investigation  
of zebra  
mussel  
content

**1.** The Minister of the Environment shall, under the provisions of section 15 (1) of the *Ontario Water Resources Act*, direct an investigation into the extent of the zebra mussel problem in the waterways specified in the Schedule.

**1** Le ministre de l'Environnement doit, aux termes de l'article 15 (1) de la *Loi sur les ressources en eau de l'Ontario*, ordonner une enquête sur l'ampleur du problème que posent les moules zébrées dans les cours d'eau désignés dans l'annexe.

Enquête sur  
la quantité de  
moules  
zébrées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Zebra Mussel Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur les moules zébrées*.

Titre abrégé

SCHEDULE/ANNEXE

Cana Lake, Canal Bay, Canal Lake, Canard Lake, Canard River, Canary Lake, Cancer Lake, Candide Creek, Candide Lake, Candler Lake, Candybar Creek, Candybar Lake, Candy Creek, Cane Lake, Canisbay Creek, Canisbay Lake, Canis Lake, Canister Creek, Canister Lake, Can Lake, Canna Creek, Canna Lake, Cannard's Bay, Canniff Creek, Canniff Lake, Canning Lake, Cannings Falls, Cannon Creek, Cannon Lake, Canoe Bay, Canoe Bay Channel, Canoe Channel, Canoe Creek, Canoe Lake, Canoeshed Lake, Canon Creek, Canon Lake, Canonto Lake, Can Opener Lake, Canterbury Lake, Canthook Lake, Cantin Lake, Cantley Creek, Cantley Lake, Canton Lake, Cantrill Lake, Canty Lake, Canvasback Lake, Canyon Creek, Canyon Falls, Canyon Lake, Canyon River, Cap Creek, Cape Lake, Cape Harbour, Cape Hurd Channel, Capella Lake, Capin Lake, Cap Lake, Capper Lake, Capre Lake, Capreol Lake, Capricornus Lake, Capsell Lake, Captain Lake, Captains Lake, Captain Tom Lake, Capton Lake, Caput Lake, Carafel Creek, Carafel Lake, Caragana Lake, Caramat Creek, Caramat Lake, Carcajou Bay, Carcajou Creek, Carcajou Lake, Carcass Lake, Card Bay, Carder Lake, Cardiff Creek, Cardiff Lake, Cardinal Creek, Cardinalis Lake, Cardinal Lake, Card Lake, Cards Lake, Cardwell Lake, Carew Lake, Carey Creek, Carey Lake, Carfrae Lake, Cargill Lake, Cargill Mill Pond, Carhess Creek, Cariad Lake, Carib Creek, Carib Lake, Cariboo Creek, Cariboo Lake, Caribou Bay, Caribou Creek, Caribou Lake, Caribou Rapids, Caribou River, Caribou Throat Lake, Caribus Lake, Carillon Rapids, Carkner Lake, Car Lake, Carl Bay, Carlomb Lake, Carl Creek, Carleton Lake, Carling Bay, Carling Lake, Carl Lake, Carlo Lake, Carlson Lake, Carstead Bay, Carlton Lake, Carlyle Lake, Carman Bay, Carman Creek, Carman Lake, Carmichael Lake, Carnachan Bay, Carnahan Lake, Carney Creek, Carney Lake, Carnilac Lake, Caro Lake, Caroline Lake, Carol Lake, Carolyn Creek, Caron Creek, Caron Lake, Carpenter Lake, Carpenter River, Carpet Lake, Carp Lake, Carp River, Carre Lake, Carrick Creek, Carrick Lake, Carrie Lake, Carriere Lake, Carrigan Lake, Carrington Lake, Carroll Creek, Carroll Lake, Carroll Wood Bay, Carrot Lake, Carruthers Lake, Carrying Lake, Carry Lake, Carscallen Lake, Carson Bay, Carson Creek, Carson Lake, Carss Creek, Carstens Lake, Carswell Lake, Cartan Lake, Carter Bay, Carter Lake, Carter Rapids, Carthew Bay, Cartier Lake, Cartier Creek, Cart Lake, Cartwrights Creek, Carty Creek, Carty Lake, Carver Lake, Cascade Falls, Cascade Lake, Cascaden Lake, Cascade Rapids, Cascade River, Cascanette Lake, Case River, Casey Creek, Casey Lake, Casgrain Creek, Casgrain Lake, Cash Creek, Cashel Lake, Cashman Creek, Cashore Creek, Casino Lake, Caskie Bay, Caskill Lake, Cask Lake, Casper Lake, Casque Lake, Cassdaga Lake, Casselman's Lake, Casselman's Creek, Cassels Lake, Cassidy Bay, Cassidy Creek, Cassidy Lake, Cassidys Bay, Cass Lake, Casson Lake, Castellar Creek, Castellar Lake, Castlebar Creek, Castlebar Lake, Castle Bay, Castle Creek, Castle Lake, Castleman Lake, Castlewood Creek, Castlewood Lake, Castor Creek, Castor Lake, Castoroil Lake, Castor Ponds, Castor River, Castra Lake, Casummit Lake, Caswell Bay, Caswell Lake, Cataract Falls, Cataract Lake, Catarauqui Bay, Catarauqui River, Castastrophe Creek, Catastrophe Lake, Catawba Lake, Cat Bay, Catchacoma Lake, Catcher Lake, Cat Creek, Caterpillar Lake, Cat Falls, Catfish Bay, Catfish Creek, Catfish Lake, Catfish Rapids, Catharine Lake, Cathro Lake, Cathy's Lake, Catlonite Creek, Catlonite Lake, Cat River, Cat Tail River, Cattral Lake, Cauchon Creek,



Cauchon Lake, Caufield Lake, Cauley Lake, Cauliflower Creek, Cauliflower Lake, Caulkin Lake, Caution Lake, Cavalary Creek, Cavalary Lake, Cavanagh Lake, Cavan Creek, Cavano Lake, Cave Harbour, Cave Lake, Cavell Creek, Cavell Lake, Cavendish Lake, Caverly's Bay, Cavern Creek, Cavern Lake, Cavers Bay, Cavern Creek, Cavern Lake, Cavers Bay, Cavers Creek, Cavers Lake, Caviar Lake, Cawanogami Lake, Cawdron Creek, Cawdron Lake, Cawing Lake, Cawston Lakes, Cawston Lakes, Cawthra Creek, Caya's Lake, Cayer Creek, Cayer Lake, Cayiens Creek, Caysee Lake, Cayuga Creek, Cayuga Lake, Cebush Lake, Cecebe Lake, Cecil Creek, Cecile Lake, Cedar Bay, Cedarbough Lake, Cedarclump Lake, Cedar Creek, Cedar Falls, Cedar-gum Lake, Cedar Harbour, Cedar Lake, Cedar Rapids, Cedar River, Cedarskirt Lake, Cedric Lake, Cee Creek, Ceepee Lake, Celastruc Lake, Cellist Lake, Celt Creek, Celtis Lake, Celt Lake, Cemetery Creek, Cemetery Lake, Centennial Lake, Centralis Creek, Centarlis Lake, Central Lake, Centre Channel, Centre Creek, Centre Falls, Centrefire Creek, Centrefire Lake, Centre Lake, Centreville Creek, Ceph Lake, Ceres Lake, Cerulean Lake, Cerullo Lake, Chabbie Lake, Chabbie River, Chabot Lake, Chadwick Lake, Chagma Lake, Chagnon Lake, Chaillon Lake, Chain Creek, Chain Lake, Chain Lakes, The Chain of Lakes, Chainy Creek, Chainy Lake, Chair Lake, Chalet Creek, Chalet Lake, Chalice Lake, Chalk Bay, Chalk Creek, Chalkend Lake, Chalk Lake, Chalk River, Challener Lake, Challener River, Challis Lake, Chalmers Lake, Chamandy Lake, Chamberlain Lake, Chamber Lake, Chambers Lake, Champagne Lake, Champlain Creek, Champlain Trail Lakes, Chance Lake, Chancellor Lake, Chandos Lake, Change Lake, Chanley Lake, Channel Lake, Channel Lakes, Green River, Greenrod Lake, Greens Bay, Green's Creek, Greenshields Lake, Greenshore Lake, Greensides Lake, Greens Lake, Greenstone Rapids, Greensward Lake, Green Tree Lake, Greenwater Creek, Greenwater Lake, Greenwich Creek, Greenwich Lake, Greenwood Lake, Greenwood River, Greer Creek, Greer Lake, Greers Bay, Greggio Lake, Greggs Lake, Gregory Bay, Gregory Creek, Gregory Lake, Grehan Lake, Greig Lake, Gremm Lake, Grenadier Creek, Grenadier Lake, Grenadier Pond, Grenfell Lake, Grenier Lake, Grenville Lake, Greske Lake, Greta Lake, Gretchel Creek, Gretchel Lake, Gretel Creek, Gretel Lake, Grew Lake, Grew River, Grey Duck Lake, Grey Lake, Grelava Lake, Grey Owl Bay, Grew Owl Lake, Green Creek, Greengrass Lake, Greenhear Creek, Greenheart Lake, Greenhedge Lake, Greenhill Lake, Greenhill Rapids, Greenhill River, Greenhorn Bay, Greenhue Lake, Greening Lake, Greening's Bay, Greenish Creek, Greenish Lake, Green Island Bay, Green Island Lake, Green Lake, Green Lakes, Greenland Lake, Greenlaw Lake, Greenleaf Creek, Greenleaf Lake, Greenlee Lake, Greenmantle Lake, Greenmantle River, Greenock Creek, Greenock Lake, Greenough Harbour, Greenpike Lake, Gravel Lake, Gravel Lakes, Gravelly Bay, Gravel-pit Lake, Gravel Pit Pond, Gravelridge Lake, Gravel River, Gravenor Lake, Graves Lake, Graveyard Creek, Graveyard Lake, Graveyard Rapids, Gravy Lake, Grawbarger Lake, Grawbarger's Rapids, Graydarl Lake, Graydon Lake, Gray Lake, Grayling Lake, Graymud Lake, Gray Rapids, Grays Bay, Grays Creek, Grays Lake, Grayson Lake, Grayson River, Grays River, Graystone Lake, Graytrout Lake, Grazing Lake, Grazing River, Great Lake, Great Mountain Lake, Great North Bay, Great Portage Lake, Great South Bay, Grebe Lake, Greb Lake, Green Bay, Greenbough Lake, Green Bug Lake, Greenbush Lake, Green Creek, Grants Lake, Granzies Lake, Grape Lake, Graphic Creek, Graphic Lake, Graphite Lake, Grapnel Bay, Grapnel Creek, Grapnel Lake, Grasett Lake, Grass Creek, Grasser Lake, Grass Hill Lake, Grass Lake, Grassy Bay, Grassy Creek, Grassy Lake, Grassy Portage Bay, Grassy River, Gratton Creek, Gratton Lake, Grave Bay, Grave Creek, Grave Lake, Gravel Bay, Gravel Beach Lake, Gravel Falls, Graham Bay, Graham Creek, Graham Lake, Gramms Creek, Graham's Lake, Granary Creek, Granary Lake, Grand Bay, Grand Campment Bay, Grande Lake, Grandeur Lake, Grand Lake, Gradmaison Lake, Grandma Lake, Grandma Stevens Pond, Grandolph Bay, Grandpa Lake, Grandpop's Lake, Grand Rapids, Grand River, Grandview Lake, Granite Bay, Graniteboss Lake, Granite Creek, Granite Falls, Granitehill Lake, Granite Lake, Granite River, Granitic Lake, Granka Lake, Granny Bay, Granny's Creek, Crano Lake, Grant Bay, Grant Creek, Grant Lake, Grant Point Harbour, Grants Creek, Grants Creek Bay, Gosselin Creek, Gosselin Lake, Gosselin's Bay, Goss Lake, Goudreau Creek, Goudreau Lake, Goudy Creek, Goudy Lake, Gough Creek, Gough Lake, Gouinlock Lake, Gouin Lake, Goulais Bay, Goulais Lake, Goulais River, Gould Creek, Goulding Lake, Goulet Bay, Goulet Creek, Goulet Lake, Gourd Lake, Gourlay Lake, Gourlie Creek, Govan Lake, Gove Lake, Gover Lake, Government Bay, Government Creek, Government Lake, Governor Bay, Gowan Creek, Gowan Lake, Gowar Bay, Goward Lake, Gowganda Bay, Gowganda Lake, Gowie Bay, Grabers Lake, Grab Lake, Grace Bay, Grace Creek, Graceful Lake, Grace Lake, Gracie Lake, Grady Lake, Graff Lake, Goose Lake, Gosse Neck Bay, Gooseneck Creek, Gooseneck Lake, Gooseneck Rapids, Goose Pond, Goose River, Gord Lake, Gordon Bay, Gordon Creek, Gordon Lake, Gordon Rapids, Gordons Bay, Gordons Creek, Gore Bay, Gorge Creek, Gorge Creek Falls, Gorge Lake, Gorman Creek, Gorman Lake, Gorman River, Gormans Creek, Gormire Lake, Gormley Creek, Gornupkagama Lake, Gorrie Lake, Gor Lakes, Gorse Creek, Gorse Lake, Gort Creek, Gort Lake, Goshawk Lake, Goshen Lake, Gosling Lake, Goldie Lake, Goldie River, Goldilocks Lake, Golding Lake, Gold Lake, Gold Mountain Lake, Goldsborough Creek, Goldsborough Lake, Gold Seekers Bay, Goldsmith Lake, Goldspink Lake, Goldstein Lake, Goldthrope Lake, Goldwin Creek, Goldwin Lake, Golf Course Bay, Golf Lake, Goltz Lake, Golub Lake, Gong Creek, Gong Lake, Gooch Creek, Gooch Lake, Goodchild Creek, Goodchild Lake, Goode Lake, Goodens Creek, Gooderham Creek, Gooderham Lake, Goodeve Lake, Goodfish Lake, Good Fortune Lake, Good Harbour, Goodie Creek, Goodie Lake, Goodier Lake, Goodkey Creek, Goodlad Lake, Good Lake, Goodliff Lake, Goodman Creek, Goodman Lake, Goodmorning Lakes, Goodoar Lake, Goodreau Lake, Goods Lake, Goodwill Lake, Goodwin Lake, Goolley Lake, Goosander Creek, Goosander Lake, Goose Bay, Gooseberry Brook, Gooseberry Creek, Gooseberry Lake, Goose Channel, Goose Creek, Goose Egg Lake, Gilder Creek, Gilder Lake, Glimmer Lake, Gling Lake, Gliskning Lake, Glitter Creek, Glitter Lake, Globe Creek, Globe Lake, Gloomy Lake, Glorious Lake, Glory Creek, Glory Lake, Glosser Bay, Gloucester Pool, Glover Bay, Glover Lake, Glovers Bay, Glue Lake, Glynn Lake, Gnat Lake, Gneiss Lake, Gneiss Rapids, Gnome Lake, Goat Creek, Goat Island Channel, Goat Lake, Goat River, Goblin Bay, Goblin Lake, Godda Lake, Goddard Lake, Godfrey Creek, Godfrey Lake, Godin Creek, Godin Lake, God's Lake, Godson Creek, Godson Lake, Goff Lake, Gog Lake, Gohere Bay, Go Home Bay, Go Home Lake, Go Home River, Going Lake, Golborne Lakes, Goldbar Lake, Gold Creek, Golden Creek, Goldeneye Lake, Golden Gate Lake, Golden Lake, Goldfield Creek, Goldfield Lake, Glass Falls, Glass Lake, Glassy Creek, Glassy Lake, Glay Lake, Glaze Lake, Gleason Brook, Gleason Lake, Gleave Lake, Gledhill Lake, Gleeson Lake, Glen Creek, Glendening Lake, Glen Erin Brook, Glenfield Creek, Glen Lake, Glenney Creek, Glenney Lake, Glenn Lake, Gillies Creek, Gillies Lake, Gilligan Creek, Gillin Lake, Gill Lake, Gillmor Lake, Gillnet Lake, Gill's



Bay, Gilman Bay, Gilman Lake, Gilmour Bay, Gilmour Creek, Gilmour Lake, Gilroy Lake, Gilson Lake, Gilt Lake, Gimby Lake, Gimlet Lake, Gina Lake, Gin Creek, Ginger Lake, Gin Lake, Ginn Lake, Ginozhe Bay, Gipsy Lake, Giraffe Creek, Giraffe Lake, Girardin Pond, Girard Lake, Girdlestone Bay, Giroux Creek, Giroux Lake, Giroux River, Girty Bay, Ghost Creek, Ghost Lake, Girvan Lake, Girvin Lake, Gitche Lake, Gibb Lake, Gittins Lake, Giunta Lake, Giving Lake, Giwshkwebi Bay, Glabb Lake, Glacier Creek, Glacier Lake, Glade Lake, Gladstone Lake, Gladwin Creek, Gladwin Lake, Gladys Lake, Glaister Creek, Glaister Lake, Glamor Lake, Glanmire Creek, Glanmire Lake, Glasford Lake, Glasgow Lake, Glasgow Pond, Glass By, Glasser Lake, Gessie Lake, Ghee Lake, Gherty Bay, Ghost Creek, Ghost Lake, Ghost River, Giacomo Lake, Gibberry Lake, Gibb Lake, Gibboney Lake, Gibbons Lake, Gibi Lake, Gibraltar Bay, Gibraltar Lake, Gibson Creek, Gibson Lake, Gibson River, Gibsons Bay, Gibsons Lake, Bids Harbour, Giffins Lake, Gifford Bay, Gifford Lake, Gignac Lake, Giguere Lake, Gilbert Creek, Gilbert Lake, Gilboe Lake, Gilby Lake, Gilchrist Bay, Gilchrist Creek, Gilchrist Lake, Gilden Lake, Giles Bay, Gilhuly Lake, Gillard Lake, Gilleran Lake, Genessee Bay, Genessee Lake, Geneva Creek, Geneva Lake, Genier Creek, Genier Lake, Gennis Lake, Genoa Creek, Genoa Lake, Genricks Lake, Gentian Creek, Gentian Lake, Gentleman Creek, Geoffrey Lake, Geoffrion Lake, Geometry Lake, Geordie Lake, Geordies Lake, George Creek, George Lake, Georges Bay, George's Lake, Georgia Lake, Georgian Bay, Georgie Creek, Georgina Lake, Geraldine Lake, Gerald Lake, Gerber Lake, Gerloch Creek, German Bay, German Lake, German Mills Creek, Gerow Lake, Gerrard Lake, Gerry Creek, Gerry Lake, Gertrude Lake, Gervais Lake, Gervis Lake, Alfreda Creek, Alfreda Island, Alfreda Lake, Alfred Inlet, Alfred Lake, Algocen Lake, Algonquin Lake, Alguire Lake, Alice Creek, Alice Lake, Alike Lake, Alistar Lake, Alijo Lake, Alkenore Lake, Allan Creek, Allan Lake, Allan Rapids, Callans Creek, Allard Lake, Allely Creek, Allely Lake, Allenby Creek, Allenby Lake, Allen Creek, Allen Lake, Allen Lakes, Allen Rapids, Allens Creek, Allens Lakes, Alligator Creek, Alligator Lake, Allingham Creek, Allin Lake, Allison Lake, Allman's Bay, Allumette Lake, Alluring Creek, Alma Creek, Alma Lake, Almas Bay, Alm Lake, Almon Lake, Almonte Lake, Almonte Rapids, Aloft Lake, Along Bay, Alona Bay Creek, Alonghill Lake, Alpha Lake, Alph Creek, Alph Lake, Alphonse Bay, Alpine Lake, Alport Lake, Alps Creek, Alsever Lake, Alston Lake, Altar Lake, Altimeter Creek, Altimeter Lake, Altitude Lake, Altitude Creek, Alto Lake, Alton Lake, Alva Lake, Alves Bay, Alvin Lake, Alwyn Lake, Amabel Creek, Amable du Fond River, Amable Lakes, Amaleen Lake, Amatewakea River, Amberly Beach, Ambrose Lake, Ambursh Bay, Amelia Lake, Ameliasbury Mill Pond, Ament Bay, American Cabin Lake, American Channel, Ames Creek, Amesdale Lake, Ames Lake, Ameson Creek, Ameson Lake, Amethyst Bay, Amethyst Harbour, Amethyst Lake, Amewin River, Amherst Bay, Amherstbury Harbour, Amikeus Creek, Amikeus Lake, Amik Lake, Amikogaming Lake, Amikougami Creek, Amik River, Amisk Creek, Amit Lake, Amlin Lake, Amoeba Lake, Amos Creek, Amos Lake, Amphibolite Bay, Amp Lake, Amra Lake, Amundsen Creek, Amwri Creek, Amwri Lake, Amy Falls, Amy Lake, Amylou Lake, Amyoa Creek, Amyoa Lake, Amyot Creek, Anaharea Creek, Anaharea Lake, Anahareo Creek, Anahareo Lake, Ana Lake, Anape Lake, Anaway Creek, Anaway Lake, Ancaster Creek, Anchicum Bay, Anchorage Bay, Anchor Lake, Anciliff Lake, Ancona Bay, Anders Lake, Anderson Creek, Anderson Lake, Anderson's Bay, Andre Creek, Andre Lake, Andress Lake, Andrew Bay, Andrew Lake, Andrews Bay, Caba Lake, Cabin Bay, Cabin Lake, Cabin Rapids, Cab Lake, Cable Creek, Cable Lake, Caboose Lake, Cabot Lake, Cache Bay, Cache Creek, Cache Lake, Cache Lake, Cache Rapids, Cache River, Cadawaja Creek, Cadawaja Lake, Caddy Creek, Caddy Lake, Cadre Lake, Caesar Lake, Cahill Creek, Cahill Lake, Caibaosai Lake, Cain Lake, Cairngorm Lake, Cairn Lake, Cairns Lake, Cairns River, Cairo Creek, Cairo Lake, Caithness Creek, Caithness Lake, Calabogie Lake, Calais Creek, Calais Lake, Calamity Creek, Calamity Lake, Calbeck Lake, Calbert Creek, Calcite Lake, Calcite Creek, Calcite Rapids, Cal Creek, Calder Creek, Calder Lake, Caldwell Lake, Caledon Creek, Caledonia Creek, Caledon Lake, Caley Lake, Calf Lake, Calf Rapids, Calhoun Lake, Caliper Lake, Callaghan Lake, Callahan Bay, Callahan Lake, Cal Lake, Callander Bay, Callery Lake, Callicut Lake, Callinan Lake, Call Lake, Calm Bay, Calm Lake, Calong Lake, Calpin Lake, Calstock Creek, Calstock Lake, Calumet Lake, Calverley's Pond, Calvert Creek, Calvert Lake, Calvin Lake, Calvin Falls, Camden Lake, Camel Lake, Camelot Lake, Camel Read Lake, Cameo Lake, Cameron Bay, Cameron Creek, Cameron Falls, Cameron Lake, Camerons Bay, Camerons Lake, Cameron's Pool, Cameroon Lake, Cam Lake, Cammack Lake, Camp Bay, Campbell Bay, Campbell Creek, Campbell Lake, Campbell's Bay, Campbell's Creek, Campbellville Pond, Campcot Lake, Camp Creek, Camp Eleven Lake, Camper Creek, Camp Lake, Camp Falls, Camp 50 Bay, Campfire Creek, Campfire Lake, Campfire River, Camp Five Lake, Camp Four Lake, Camp 14 Creek, Camp 14 Lake, Campground Lake, Camphouse Lake, Camping Lake, Campion Rapids, Camp Island Lake, Camp Lake, Camp Nine Creek, Camp Nine Lake, Camp One Bay, Camp One Lake, Campover Lake, Camp River, Camproad Creek, Camproad Lake, Camp 7 Bay, Camp 7 Lake, Camp 6 Bay, Camp Six Lake, Camp Six Rapids, Campstool Lake, Campten Bay, Camp Ten Bay, Camp Ten Lake, Camp 36 Lake, Camp Three Bay, Camp Three Lake, Camp Three Rapids, Camp Two Lake, Campus Creek, Campus Lake, Camrose Lake, Canada Jay Lake, Canadensis Lake, Canadian Channel, Canagagigue Creek, Cana Lake, Canal Bay, Aaron Creek, Aaron Lake, Abalard Creek, Abamasagi Lake, Abamategwia Lake, Abams Lake, Abate Lake, Abbe Creek, Abbe Lake, Abess Lake, Abbey Creek, Abbey Dawn Creek, Abbey Lake, Abbie Lake, Abbotsford Creek, Abbotsford Lake, Abbott Creek, Abbott Lake, Abe Creek, Abelson Lake, Aberarder Creek, Aber Creek, Aberdeen Creek, Aberdeen Lake, Aberfoyle Creek, Aber Lake, Abernethy Lake, Abes Lake, Abie Lake, Abigogami Creek, Abigogami Lake, Abimatinu Lake, Abimatinu River, Abinette Lake, Abinette River, Abitibi River, Abitibi Lake, Abney Lake, Abram Lake, Abs Lake, Acanthus Lake, Ace Lake, Acer Lake, Achapi Lake, Acheson Lake, Achigan Creek, Achigan Lake, Acid Lake, Acker Lake, Ackert Drain, Acme Lake, Acolyte Lake, Aconda Lake, Acorn Lake, Acre Lake, Acton Lake, Acton Pond, Adagio Lake, Adair Creek, Adair Lake, Ada Lake, Adamac Lake, Adam Creek, Adamhay Lake, Adam Lake, Adam's Bay, Adams Creek, Adams Lake, Adamson Lake, Adams Pond, Adams River, Adams Lake, Adanac Lake, Adanac Creek, Addie Lake, Addington Lake, Addison Lake, Add Lake, Adelaide Creek, Adelaide Lake, Adelard Lake, Adele Lake, Adel Lake, Adik Creek, Adik Lake, Adios Lake, Admiral Creek, Admiral Lake, Admit Lake, Adobe Lake, Adogio Lake, Adrains Creek, Adrian Lake, Adrienne Lake, Adventure Creek, Adventure Lake, Adze Lake, Aegean Creek, Aegean Lake, Aerial Lake, Aerobus Bay, Aerobus Creek, Aerobus Lake, Aerofoil Lake, Aeroplane Lake, Affleck Lake, A-Frame Lake, Again River, Agam Lake, Agar Lake, Agassiz Lake, Agate Creek, Agate Lake, Agawa Bay, Agawa Lake, Agawa River, Agawask Creek, Agimak Lake, Agnes Lake, Agnes River, Agnew Lake, Agonzon Lake, Agreen Lake, Aguasabon River, Aguasabon Lake,

Ague Lake, Agusada Creek, Agusada Lake, Agusk Lake, Agutua Lake, Agutua River, Agwa Bay, Agwasuk River, Agwatik River, Ahdik Lake, Ahern Lake, Ahmabel Lake, Ahme Lake, Ahme Creek, Ahmic Creek, Ahmic Lake, Ahsin Bay, Ahsine Creek, Ahsine Lake, Aide Creek, Aide Lake, Aidie Creek, Aikens Lake, Aikman Lake, Aileen Lake, Ainslie Lake, Air Base Bay, Aird Bay, Aird Lake, Airfield Creek, Air Hole Lake, Airplane Lake, Airport Drain, Airport Lake, Airstrip Lake, Airy Creek, Airy Lake, Aitken Creek, Aitken Lake, Ajax Lake, Akandamo Lakes, Akandamo River, Akebia Creek, Akebia Lake, Akey Lake, Aki Lake, Akin Lakes, Akonesi Creek, Akonesi Lake, Akonewi Lake, Akow Lake, Akron Creek, Akron Lake, Alabama Lake, A Lake, Alaska's Lake, Alba Lake, Albany River, Cox Bay, Cox Creek, Cox Lake, Cox's Lake, Coy Lake, Coyle Creek, Coyle Lake, Coyne Lake, Coyston Lake, CPR Bay, Crabclaw Creek, Crabclaw Lake, Crab Lake, Crabtree Lake, Cracknell Lake, Crackshot Lake, Craddock Creek, Craddock Lake, Cradle Creek, Cradle Lake, Craft Creek, Craft Lake, Crag Lake, Craig Lake, Caignative Lake, Craigs Creek, Craig's Swamp, Crain Lake, Crains Lake, Cramadog Creek, Cramadog Lake, Cramp Creek, Cramp Lake, Cranberry Bay, Cranberry Creek, Cranberry Lake, Chenier Lake, Cherie Creek, Cherniuk Lake, Cherries Bay, Cherrington Lake, Cherry Creek, Cherry Lake, Cherry River, Chesakan Creek, Chesakan Lake, Chesley Lake, Chesney Bay, Chesterfield Bay, Chesterfield Creek, Chesterfield Lake, Chester Lake, Chewink Creek, Chewink Lake, Chiah Lake, Chiblow Lake, Chicago Bay, Chicault Lake, Chickadee Lake, Chicken Farm Lake, Chicken Liver Channel, Chick Lake, Chicobi Lake, Chicot Lake, Chief Bay, Chief Creek, Chief Lake, Chief Peter, Chief's Creek, Chiki Lake, Chilcott Lake, Childerhorse Creek, Childerhorse Lake, Chill Creek, Chill Lake, Chilton Lake, Chimahagan River, Chime Lake, China Lake, Chin Creek, Chiniguchi River, Chiniguchi Lake, Chin Lake, Chin River, Chipai River, Chipai Lake, Chipchase Lake, Chipican Lake, Chip Lake, Chipman Lake, Chipmunk Creek, Chipmunk Lake, Chippawa Channel, Chippewa Lake, Chippewa Creek, Chippy Lake, Chisamore Lake, Chisholm Drain, Chit Lake, Fade Lake, Fagan Lake, Fagan Ponds, Fagus Bay, Fahey Lake, Fairbairn Creek, Fairbairn Lake, Fairbanks Creek, Fairchild Creek, Fairchild Lake, Faircloth Lake, Fairholme Lake, Fair Lake, Fairloch Lake, Fairplay Lake, Fairs Creek, Fairview Creek, Fairy Creek, Fairy Lake, Faith Lake, Fakeloo Lake, Fakeloo Creek, Falan Lake, Falby Lake, Falcon Lake, Fall Creek, Fallduck Lakes, Fallen Creek, Fallen Lake, Fall-In-Lake, Fallis Pond, Fall Lake, Fallon Island, Falloon Lake, Fall River, Fallscamp Creek, Fallscamp Lake, Falls Lake, Falls River, False Creek, False Lake, Falsetto Lake, Fan Lake, Fanny Lake, Fanshawe Lake, Fansher Lake, Faraday Creek, Faraday Lake, Farah Lake, Farden Lake, Farewell Bay, Farewell Lake, Faries Lake, Faris Lake, Farlain Lake, Far Lake, Farlane Lake, Farlette Lake, Farley Lake, Farleys Creek, Farlington Lake, Farm Bay, Farm Bay Lake, Farm Creek, Farmer Lake, Farm Lake, Farncomb Lake, Farncomb Creek, Farner Lake, Farnes Lake, Farnham Creek, Farquhar Creek, Farquhar Lake, Farr Creek, Farrel Creek, Farrel Lake, Farrell Lake, Farrer Lake, Farrington Lake, Farrington Creek, Farrow Lake, Farwell Creek, Fassett Lake, Fatima Lake, Fat Lake, Fat River, Fatty Creek, Fatty Lake, Faubert Lake, Faulkenham Lake, Faulk Lake, Faulkner Lake, Fault Creek, Fault Lake, Faultside Lake, Fauquier Lake, Favel Bay, Favel Lake, Favell Bay, Favot Creek, Favot Creek, Fawcett Lake, Fawn Creek, Fawn Lake, Fawthrop Lake, Faya Lake, Feagan Lake, Fear Lake, Fearless Lake, Feather Lake, Feather River, Feaver Lake, Fecteau Lake, Fee Lake, Feely Creek, Feely Lake, Feeny Lake, Feeny Lake, Feist Creek, Feist Lake, Felcite Lake, Feldman Lake, Feline Lake, Felix Lake, Fells Bay, Felsen Creek, Felsen Lake, Felst Lake, Felt Lake, Felto Lake, Fenelon River, Fen Lake, Fennah Lake, Fennell Lake, Fenn Lake, Fenson Lake, Fenton Lake, Fergus Lake, Fergus Creek, Ferguson Lake, Ferguson Bay, Ferguson Creek, Ferguson Drain, Fergusons Lake, Ferland's Lake, Fermoy Lake, Fern Creek, Ferndale Bay, Fern Lake, Fernley Drain, Fernlund Lake, Fernow Lake, Fernow River, Ferns Lake, Ferrier Creek, Ferrie River, Ferrim Lake, Ferris Lake, Festuca Lake, Fetter Lake, Fewster Drain, Fib Lake, Ficht Lake, Fiddler Lake, Fidler River, Fido Lake, Field's Lake, Fife Lake, Fifteen Lake, Fifteen Mile Creek, Fifteen Mile Lake, Fifteen Mile Pond, Fifth Lake, Fifty Creek, Fifty Dollar Lake, Fifty Nine Lake, Fifty Two Lake, Fillet Creek, Fillet Lake, Fillion Lake, Fills Lake, Film Lake, Filter Creek, Filter Lake, Final Lake, Fin Bay, Finch Lake, Fin Creek, Findlay Creek, Findlay Creek, Findlay Lake, Fine Lake, Finger Bay, Finger Lake, Finish Lake, Fink Lake, Fin Lake, Finland Creek, Finlay Bay, Finlay Creek, Finlayson Creek, Finlayson Lake, Finnegan Lake, Finney Creek, Finney Lake, Finn Lake, Finton Lake, Fintry Creek, Fire Creek, Firefly Creek, Firefly Lake, Fire Hill Creek, Fire Hill Lake, Fire Lake, Fireline Lake, Firella Creek, Fire River, Fire-sand River, Firesteel River, Firetail Creek, Firetail Lake, Fir Lake, Firman's Creek, First Concession Drain, First Creek, First Depot Lake, First Egan Lake, First Government Lake, First James Lake, First Justin Lake, First Kargus Lake, First Lake, First Loon Creek, First Loon Lake, Firth Creek, Firth Lake, Fischer Lake, Fishbasket Lake.







CA2 ON  
7B

Bill 96

Private Member's Bill

Projet de loi 96

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 96

**An Act to protect the Economy of the  
Border Community of the City of  
Brockville**

**Mr. Runciman**

1st Reading      May 14th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 96

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Brockville**

**M. Runciman**

1<sup>re</sup> lecture      14 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of Brockville by ensuring that government-imposed costs do not undermine the competitiveness of firms in Brockville.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de Brockville en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de Brockville.

**Bill 96****1991****An Act to protect the Economy of the  
Border Community of the City of  
Brockville**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Brockville.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *City of Brockville Economic Protection Act, 1991*.

**Projet de loi 96****1991****Loi sur la protection économique de la  
communauté frontrière de la cité de  
Brockville**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
d'augmenta-  
tions fiscales  
proposées

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliquée sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Brockville.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de Brockville*.

Titre abrégé





CA 2 ON  
XB  
B56

Bill 97

Private Member's Bill

Projet de loi 97

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 97

**An Act to protect the Economy of the  
Border Community of the City of  
Windsor**

**Mr. Harris**

1st Reading     May 14th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 97

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Windsor**

**M. Harris**

1<sup>re</sup> lecture     14 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of Windsor by ensuring that government-imposed costs do not undermine the competitiveness of firms in Windsor.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de Windsor en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de Windsor.

Bill 97

1991

Projet de loi 97

1991

**An Act to protect the Economy of the  
Border Community of the City of  
Windsor**

**Loi sur la protection économique de la  
communauté frontière de la cité de  
Windsor**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Windsor.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliquée sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Windsor.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *City of Windsor Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de Windsor*.

Titre abrégé





**Bill 98**

**Private Member's Bill**

**Projet de loi 98**

**de député**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 98

**An Act to protect the Economy of the  
Border Community of the Town of  
Fort Frances**

**Mr. Harris**

1st Reading      May 14th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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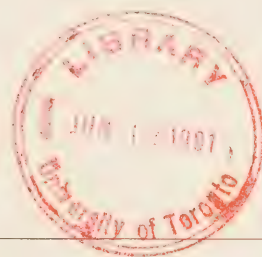
## Projet de loi 98

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Fort Frances**

**M. Harris**

1<sup>re</sup> lecture      14 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Fort Frances by ensuring that government-imposed costs do not undermine the competitiveness of firms in Fort Frances.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville de Fort Frances en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de Fort Frances.

Bill 98

1991

Projet de loi 98

1991

**An Act to protect the Economy of the  
Border Community of the Town of  
Fort Frances**

**Loi sur la protection économique de la  
communauté frontière de la ville de  
Fort Frances**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Fort Frances.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliquée sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Fort Frances.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Town of Fort Frances Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Fort Frances*.

Titre abrégé





A2 On  
XB

Bill 99

Private Member's Bill

Projet de loi 99

de député

1st SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 99

**An Act to protect the Economy of the  
Border Community of the Town of  
Gananoque**

**Mr. Harris**

1st Reading      May 14th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 99

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Gananoque**

**M. Harris**

1<sup>re</sup> lecture      14 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Gananoque by ensuring that government-imposed costs do not undermine the competitiveness of firms in Gananoque.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville de Gananoque en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de Gananoque.

**Bill 99****1991****Projet de loi 99****1991****An Act to protect the Economy of the  
Border Community of the Town of  
Gananoque****Loi sur la protection économique de la  
communauté frontière de la ville de  
Gananoque**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Gananoque.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliquée sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Gananoque.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Town of Gananoque Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Gananoque*.

Titre abrégé





Bill 100

Private Member's Bill

Projet de loi 100

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 100

**An Act to protect the Economy of the  
Border Community of the Town of  
Amherstburg**

**Mr. Eves**

1st Reading     May 14th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 100

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Amherstburg**

**M. Eves**



1<sup>re</sup> lecture     14 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Amherstburg by ensuring that government-imposed costs do not undermine the competitiveness of firms in Amherstburg.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville d'Amherstburg en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies d'Amherstburg.

**Bill 100****1991****An Act to protect the Economy of the  
Border Community of the Town of  
Amherstburg**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Amherstburg.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Town of Amherstburg Economic Protection Act, 1991*.

**Projet de loi 100****1991****Loi sur la protection économique de la  
communauté frontrière de la ville de  
Amherstburg**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliquée sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Amherstburg.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Amherstburg*.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Entrée en  
vigueur

Titre abrégé





Bill 101

Private Member's Bill

Projet de loi 101

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 101

**An Act to require the Minister of  
Industry and Trade to Conduct a Study  
on the Effect of the 1991/1992 Ontario  
Budget on Certain Industries**

**Mr. Harris**

1st Reading      May 15th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 101

**Loi exigeant du ministre de l'Industrie  
et du Commerce qu'il effectue une étude  
sur les effets du budget de 1991-1992 à  
l'égard de certaines industries**

**M. Harris**

1<sup>re</sup> lecture      15 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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#### EXPLANATORY NOTE

The purpose of the Bill is to require the Minister of Industry and Trade to conduct a study on the effect of the 1991/1992 Ontario Budget on certain industries.

#### NOTE EXPLICATIVE

L'objet du projet de loi est d'exiger que le ministre de l'Industrie et du Commerce effectue une étude sur les effets du budget de l'Ontario de 1991-1992 à l'égard de certaines industries.

**An Act to require the Minister of Industry and Trade to Conduct a Study on the Effect of the 1991/1992 Ontario Budget on Certain Industries**

**Loi exigeant du ministre de l'Industrie et du Commerce qu'il effectue une étude sur les effets du budget de 1991-1992 à l'égard de certaines industries**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Study

**1.**—(1) The Minister of Industry and Trade shall conduct a study on the effect of the 1991/1992 Ontario Budget on the industries referred to in the Schedule.

**1** (1) Le ministre de l'Industrie et du Commerce effectue une étude sur les effets du budget de l'Ontario de 1991-1992 à l'égard des industries visées dans l'annexe.

Études

Idem

(2) The Minister shall lay a report setting out the results of the study before the Legislative Assembly on a day not later than the 30th day of September, 1991.

(2) Le ministre dépose auprès de l'Assemblée législative un rapport énonçant les résultats de l'étude, au plus tard le 30 septembre 1991.

Idem

Commencement

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

Short title

**3.** The short title of this Act is the *Budgetary Effects Study Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur l'étude des effets budgétaires*.

Titre abrégé

**SCHEDULE**

**ANNEXE**

Agricultural and Related Services Industries, the Fishing and Trapping Industries, the Logging and Forestry Industries, the Mining Industry, the Quarrying and Oil Well Industries, the Crude Petroleum and Natural Gas Industries, the Quarry and Sand Pit Industries, the Mineral Extraction-Related Services Industries, the Meat and Meat Product Industries, the Poultry Products Industry, the Fish Products Industry, the Fruit and Vegetable Industries, the Dairy Products Industry, the Feed, Bread and Other Bakery Products Industry, the Miscellaneous Food Products Industry, the Soft Drink Industry, the Distillery Products Industry, the Brewery Products Industry, the Tobacco Products Industry, the Rubber Products Industry, the Plastic Products Industry, the Leather & Allied Products Industry, the Footwear Industry, the Primary Textile and Textile Products Industry, the Wool Yarn and Cloth Industry, the Miscellaneous Textile Products Industry, the Carpet, Mat and Rug Industry, the Clothing Industry, the Hosiery Industry, the Sawmills Industry, the Planing and Shingle Mill Industry, the Veneer and Plywood Industry, the Sash, Door and Other Millwork Industry, the Other Wood Products Industry, the Household Furniture Industry, the Office Furniture Industry, the Pulp and Paper Industry, the Paper Box and Bag Industry, the Other Converted Paper Products Industry, the Printing and Publishing Industry, the Platemaking Industry, the Typesetting and Bindery Industry, the Primary Steel Industry, the Steel Pipe and Tube Industry, the Iron Foundry Industry, the Non-ferrous Smelting and Refining Industry, the Power Boiler and Structural Metal Industry, the Ornamental and Architectural Metal Product Industry, the Stamped, Pressed and Coated Metal Indus-

Agriculture et services connexes; pêche et piégeage; mines, carrières et puits de pétrole; pétrole brut et gaz naturel; carrières et sablières; industries des services connexes à l'extraction du minerai; viandes; volaille; poisson; fruits et légumes; produits laitiers; aliments pour animaux; pain et autres produits de boulangeries; produits alimentaires divers; boissons gazeuses; produits de distillation; bière; tabac; produits de caoutchouc; produits en matière plastique; cuir et produits connexes; chaussure; textiles et produits textiles; filature et tissage de la laine; produits textiles divers; tapis, carpettes et moquettes; habillement sauf bas; bas et chaussettes; scieries, rabotage et bardeaux; placages et contreplaqués; portes, châssis, autres bois ouvrés; industries d'autres produits du bois; meubles de maison; meubles de bureau; pâtes et papier; boîtes en carton et sacs en papier; autres produits en papier transformé; imprimerie et édition; clichage, composition et reliure; sidérurgiques; tubes et tuyaux d'acier; fonderies de fer; fonte et affinage de métaux non ferreux; chaudières et éléments de charpente; architecture en métal; emboutissage et matricage des métaux; fil métallique et ses produits; articles de quincaillerie; matériel de chauffage; ateliers d'usinage; autres produits en métal; instruments aratoires; équipement commercial de réfrigération; aéronefs et pièces d'aéronefs; véhicules automobiles; carrosseries de camions et d'autobus et remorques; pièces et accessoires pour véhicules; matériel ferroviaire roulant; construction, réparation de navire; petits appareils électriques; gros appareils (électriques ou non); phonographes, récepteurs radio et télévision; matériel électronique; ordinateurs et autres machines de bureau; fils et câbles, électronique et communica-



try, the Wire and Wire Products Industry, the Hardware, Tool and Cutlery Industry, the Heating Equipment Industry, the Machine Shop Industry, the Miscellaneous Metal Fabricating Industry, the Agriculture Implement Industry, the Commercial Refrigeration Equipment Industry, the Aircraft and Aircraft Parts Industry, the Motor Vehicle Industry, the Truck, Bus Body and Trailer Industry, the Motor Vehicle Parts and Accessories Industry, the Railroad Rolling Stock Industry, the Shipbuilding and Repair Industry, the Small Electrical Appliance Industry, the Major Appliance Industry, the Record Players Industry, the Radio and TV Receivers Industry, the Electronic Equipment Industry, the Office, Store and Business Machines Industry, the Communications Industry, the Energy Wire and Cable Industry, the Battery Industry, the Cement Industry, the Concrete Products Industry, the Ready-mix Concrete Industry, the Glass and Glass Products Industry, the Refined Petroleum and Coal Products Industry, the Chemicals Industry, the Plastic and Synthetic Resin Industry, the Pharmaceutical and Medicine Industry, the Paint and Varnish Industry, the Soap and Cleaning Compounds Industry, the Toilet Preparations Industry, the Jewellery and Precious Metal Products Industry, the Sporting Goods and Toy Products Industry, the Sign and Display Industry, the Floor Tile Industry, the Linoleum Industry, the Coated Fabrics Industry, the Residential Construction Industry, the Commercial Construction Industry, the Air Transport and Related Services Industry, the Water Transport and Related Services Industry, the Truck Transport Industry, the Urban Transit Systems Industry, the Interurban and Rural Transit Systems Industry, the Pipeline Transport Industry, the Storage and Warehousing Industry, the Telecommunications Broadcasting Industry, the Telecommunication Carriers Industry, the Electric Power Systems Industry, the Gas Distribution Systems Industry, the Wholesale Trade Industry, the Retail Trade Industry, the Banking Industry, the Credit Unions and Other Deposit Institutions Industry, the Trust Institutions Industry, the Other Financial and Real Estate Institutions Industry, the Insurance Industry, the Business Service Industry, the Educational Services Industry, the Health Services Industry, the Accommodation and Food Services Industries, the Amusement and Recreational Services Industry and the Personal and Household Services Industry.

tion; accumulateurs; ciment; produits en béton; béton préparé; verre et articles en verre; produits raffinés de pétrole et charbon; produits chimiques; matériel plastique et résine synthétique; produits pharmaceutiques et médicaments; peintures et vernis; savons et composés de nettoyage; produits de toilette; bijouterie et orfèvrerie; articles de sport et jouets; enseignes et étalages; dalles, linoléum et tissus enduits; construction domiciliaire; construction commerciale; transport aérien et services connexes; transport par eau et services connexes; camionnage; transport en commun urbain; transport en commun interurbain et rural; transport par pipelines; entreposage et emmagasinage; télécommunications, transmission; énergie électrique; distribution de gaz; commerce de gros; commerce de détail; banques, caisses d'épargne et autres institutions de dépôt; société de fiducie, autres agents financiers et immobiliers; assurances; services aux entreprises; services d'enseignements; services de soins de santé; hébergement et restauration; services de divertissements et loisirs; et services personnels et domestiques.

Bill 102

Private Member's Bill

Projet de loi 102

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 102

**An Act to protect the Economies of the  
Border Communities of the Cornwall  
Area**

**Mr. Cleary**

1st Reading     May 16th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 102

**Loi sur la protection économique des  
communautés frontières de la région de  
Cornwall**

**M. Cleary**



1<sup>re</sup> lecture     16 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economies of the border communities of the Cornwall area by ensuring that government-imposed costs do not undermine the competitiveness of firms in those communities.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie des communautés frontières de la région de Cornwall en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies de ces communautés.

**Bill 102****1991****Projet de loi 102****1991****An Act to protect the Economies of the  
Border Communities of the Cornwall  
Area****Loi sur la protection économique des  
communautés frontières de la région  
de Cornwall**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Cornwall, the Township of Cornwall and the Township of Charlottenburgh.

**2.** This Act comes into force on a day it receives Royal Assent.

**3.** The short title of this Act is the *Cornwall Area Economic Protection Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Cornwall, du canton de Cornwall et du canton de Charlottenburgh.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la région de Cornwall*.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Entrée en  
vigueur

Titre abrégé

Exemption  
from  
proposed tax  
increases

Commence-  
ment

Short title





CA 2 ON  
856

Govern  
Publica

**Bill 103**

**Private Member's Bill**

**Projet de loi 103**

**de député**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## **Bill 103**

**An Act to establish the Rights of  
Victims of Crime**

**Mr. Jackson**

1st Reading      May 16th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## **Projet de loi 103**

**Loi portant déclaration des droits  
des victimes d'actes criminels**

**M. Jackson**

1<sup>re</sup> lecture      16 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTES

The Bill applies to victims of crime and includes as victims specified relatives of victims of crime if the commission of an offence results in the death of the victim.

The Bill provides that the following principles apply to the treatment of victims of crime:

1. Victims should be treated with courtesy, compassion and respect for their personal dignity and privacy.
2. Victims should receive social services, health care and medical treatment, counselling and legal assistance responsive to their needs.
3. Victims should receive information from investigating police officers concerning the investigation and the victim's protection.
4. Victims should receive information from prosecuting Crown Attorneys concerning any proceedings.
5. Victims should have an opportunity to make representations to the Crown Attorney concerning interim release and sentencing.
6. Victims should receive notice of impending release from custody of a convicted person.
7. A victim of a sexual assault should, if the victim so requests, be interviewed only by a police officer of the same gender.

The Bill also affords the following protections to victims of crime when they are plaintiffs in civil actions against their assailants:

1. No order for security for costs or for disallowance of interest can be made against them.
2. The victim may be compensated for emotional distress.
3. A judge is not to consider the sentence imposed on the person convicted in awarding damages to the victim. The sentence is to be considered, however, before making an award for punitive damages.

## NOTES EXPLICATIVES

Le projet de loi s'applique aux victimes d'actes criminels et inclut dans la définition du terme «victime» certains parents des victimes dans les cas où la commission d'une infraction entraîne leur décès.

Le projet de loi prévoit que les principes suivants régissent le traitement des victimes d'actes criminels :

1. Les victimes doivent être traitées avec courtoisie, avec compassion et dans le respect de leur dignité personnelle et de leur vie privée.
2. Les victimes doivent bénéficier de services sociaux, de services de santé, de soins médicaux, de services de consultation et de services d'aide juridique qui répondent à leurs besoins.
3. Les victimes doivent être informées de l'enquête et des mesures de protection qui s'offrent à elles par les agents de police chargés de l'enquête.
4. Les victimes doivent être informées des instances par les procureurs de la Couronne chargés des poursuites.
5. Les victimes doivent avoir la possibilité de présenter des observations au procureur de la Couronne à l'égard de la mise en liberté provisoire et du prononcé de la sentence.
6. Les victimes doivent être avisées de la mise en liberté imminente de la personne reconnue coupable.
7. Les victimes d'agressions sexuelles qui en font la demande ne doivent être interrogées que par des agents de police du même sexe.

Le projet de loi offre en outre les mesures de protection suivantes aux victimes d'actes criminels qui sont parties demanderes dans les actions civiles intentées contre leurs agresseurs :

1. Aucune ordonnance de cautionnement pour dépens ni ordonnance de refus d'intérêts ne peuvent être rendues contre elles.
2. Elles peuvent obtenir réparation pour leurs troubles affectifs.
3. Le juge ne doit pas tenir compte de la peine infligée à la personne reconnue coupable lorsqu'il accorde des dommages-intérêts à la victime, mais il doit la prendre en considération s'il condamne la personne à des dommages-intérêts punitifs.

## An Act to establish the Rights of Victims of Crime

## Loi portant déclaration des droits des victimes d'actes criminels

Preamble	<p>Whereas criminal conduct is a violation of the rights and security of the people against whom the crimes are committed; and whereas the victims of criminal conduct require compassionate and equitable treatment, unrestricted access to necessary services and full compensation.</p> <p>Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:</p>	<p>Attendu que le comportement criminel constitue une atteinte aux droits et à la sécurité des victimes; attendu que celles-ci doivent être traitées avec compassion et équité, qu'elles doivent avoir libre accès aux services dont elles ont besoin et qu'elles doivent obtenir entière réparation.</p> <p>Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :</p>	Préambule
Definition	<p><b>1.</b> In this Act, "victim" means a person who, as a result of the commission of an offence by another against the <i>Criminal Code</i> (Canada), suffers emotional or physical harm or loss of, or damage to, property and, if the commission of the offence results in the death of the person, means, a spouse, guardian, parent, sibling, child or dependant of the person.</p>	<p><b>1</b> Dans la présente loi, «victime» s'entend de la personne qui, par suite de la commission par autrui d'une infraction au <i>Code criminel</i> (Canada), souffre de maux affectifs ou physiques ou bien encourt une perte matérielle ou des dommages matériels et, si la commission de l'infraction entraîne son décès, s'entend de son conjoint, de son tuteur, de ses père et mère, de ses frères et soeurs, de ses enfants ou des personnes à sa charge.</p>	Définition
Principles	<p><b>2.</b> The following principles apply to the treatment of victims of crime:</p> <ol style="list-style-type: none"> <li>1. Victims should be treated with courtesy, compassion and respect for their personal dignity and privacy.</li> <li>2. Victims should have access to social services, health care and medical treatment, counselling and legal assistance responsive to their needs.</li> <li>3. Victims should be informed at the time of the investigation of the crime by the police of, <ol style="list-style-type: none"> <li>i. the services and remedies available to victims of crime,</li> <li>ii. the provisions of this Act and of the <i>Compensation for Victims of Crime Act</i> that might assist them, and</li> </ol> </li> </ol>	<p><b>2</b> Les principes suivants s'appliquent au traitement des victimes d'actes criminels :</p> <ol style="list-style-type: none"> <li>1. Les victimes doivent être traitées avec courtoisie, avec compassion et dans le respect de leur dignité personnelle et de leur vie privée.</li> <li>2. Les victimes doivent avoir accès à des services sociaux, à des services de santé, à des soins médicaux, à des services de consultation et à des services d'aide juridique qui répondent à leurs besoins.</li> <li>3. Les victimes, au moment de la tenue de l'enquête sur l'acte criminel, doivent être informées de ce qui suit par la police : <ol style="list-style-type: none"> <li>i. les services et les recours mis à la disposition des victimes d'actes criminels,</li> <li>ii. les dispositions prévues par la présente loi et par la loi intitulée <i>Compensation for Victims of Crime Act</i> («Loi sur l'indemnisation des victimes d'actes criminels») qui peuvent les aider,</li> </ol> </li> </ol>	Principes



- iii. the protection available to victims to prevent unlawful intimidation.
4. Victims should be informed by the police of,
- i. the progress of investigations that relate to the crime, and
  - ii. the charges laid with respect to the crime and, if no charges are laid, the reasons why no charges are laid.
5. Victims should be informed by the prosecuting Crown Attorney of,
- i. the victim's role in the prosecution,
  - ii. court procedures that relate to the prosecution,
  - iii. the dates and places of all proceedings that relate to the prosecution, and
  - iv. the outcome of all proceedings, including any proceedings on appeal.
6. Victims should be informed of any pretrial arrangements that are made that relate to a plea that may be entered by the accused at trial and should have an opportunity to make representations to the prosecuting Crown Attorney before any final arrangement is made with respect to the plea.
7. Victims should be given an opportunity to make representations to the prosecuting Crown Attorney respecting the interim release and, in the event of conviction, the sentencing of an accused.
8. Victims of an offence against the person under Part VIII of the *Criminal Code* (Canada) should be notified of any application for release or any impending release from custody of the convicted person, including any release on parole, on temporary absence pass or in accordance with a program of temporary absence, or any escape of the person from lawful custody.
9. Victims of sexual assault should, if the victim so requests, be interviewed during the investigation of the crime only by police officers and officials of the same gender as the victim.
- iii. la protection qui leur est offerte pour empêcher toute intimidation illicite.
4. Les victimes doivent être informées de ce qui suit par la police :
- i. l'état d'avancement des enquêtes se rapportant à l'acte criminel,
  - ii. les accusations portées à l'égard de l'acte criminel et, en l'absence d'accusations, les motifs pour lesquels aucune accusation n'est portée.
5. Les victimes doivent être informées de ce qui suit par le procureur de la Couronne chargé de la poursuite :
- i. le rôle de la victime dans la poursuite,
  - ii. les procédures judiciaires qui se rapportent à la poursuite,
  - iii. les dates et lieux des instances qui se rapportent à la poursuite,
  - iv. l'issue des instances, y compris les instances en appel.
6. Les victimes doivent être informées des dispositions préparatoires au procès qui sont prises à l'égard d'un plaidoyer pouvant être inscrit par le prévenu au procès et doivent avoir la possibilité de présenter des observations à ce propos au procureur de la Couronne chargé de la poursuite avant qu'une disposition définitive ne soit prise à l'égard du plaidoyer.
7. Les victimes doivent avoir la possibilité de présenter des observations au procureur de la Couronne chargé de la poursuite concernant la mise en liberté provisoire du prévenu et, en cas de déclaration de culpabilité, le prononcé de la sentence.
8. Les victimes d'une infraction à l'endroit de la personne, prévue à la partie VIII du *Code criminel* (Canada), doivent être avisées de toute requête visant à obtenir la mise en liberté de la personne reconnue coupable, de sa mise en liberté imminente, notamment en vertu d'une libération conditionnelle, d'un laissez-passer ou d'une permission de sortir, ou de son évasion si elle est détenue légalement.
9. Les victimes d'agressions sexuelles, si elles en font la demande, ne doivent être interrogées au cours de l'enquête sur l'acte criminel que par des agents

		de police et des fonctionnaires de police du même sexe qu'elles.	
Liability	<b>3.—(1)</b> A person convicted of an offence against the person under Part VIII of the <i>Criminal Code</i> (Canada) is liable in damages to every victim of the offence for emotional distress, and bodily harm resulting from the distress, arising from the commission of the offence.	<b>3</b> (1) Quiconque est reconnu coupable d'une infraction à l'endroit de la personne, prévue à la partie VIII du <i>Code criminel</i> (Canada), est redevable à chaque victime de dommages-intérêts pour les troubles affectifs que lui cause l'infraction et pour les lésions corporelles liées à ces troubles.	Responsabilité
Presumption	(2) The following victims shall be presumed to have suffered emotional distress: 1. A victim of an assault if the victim is or was a spouse of the assailant. 2. A victim of a sexual assault. 3. A victim of an attempted sexual assault.	(2) Sont présumées avoir subi des troubles affectifs les victimes suivantes : 1. La victime d'une agression si elle est ou était le conjoint de l'agresseur. 2. La victime d'une agression sexuelle. 3. La victime d'une tentative d'agression sexuelle.	Présomption
Security	<b>4.—(1)</b> Despite any rule or statutory provision respecting security for costs, a victim shall not be required to provide security for costs in an action brought by the victim against a person convicted of committing the offence.	<b>4</b> (1) Malgré toute règle ou toute disposition législative relatives au cautionnement pour dépens, la victime n'est pas tenue de fournir un cautionnement pour dépens dans l'action qu'elle a intentée contre la personne reconnue coupable de l'infraction.	Cautionnement
Interest	(2) A judge may not disallow interest under clause 140 (1) (a) of the <i>Courts of Justice Act, 1984</i> in an action brought by a victim against a person convicted of committing the offence.	(2) Un juge ne peut refuser les intérêts visés à l'alinéa 140 (1) a) de la loi intitulée <i>Courts of Justice Act, 1984</i> (« <i>Loi de 1984 sur les tribunaux judiciaires</i> ») dans l'action intentée par la victime contre la personne reconnue coupable de l'infraction.	Intérêts
Conviction	<b>5.</b> In an action brought by a victim against a person convicted of committing the offence, proof of conviction shall be taken as conclusive evidence that the offence was committed by the person convicted and that the facts stated in the information or indictment upon which the conviction is entered are true if,  (a) no appeal of the conviction was taken and the time for an appeal has expired; or (b) an appeal of the conviction was taken, but was dismissed, and no further appeal is available.	<b>5</b> Dans l'action intentée par la victime contre la personne reconnue coupable de l'infraction, la preuve de la déclaration de culpabilité est réputée une preuve concluante que l'infraction a été commise par la personne reconnue coupable et que les faits énoncés dans la dénonciation ou l'acte d'accusation sur lesquels est consignée la déclaration de culpabilité sont véridiques si, selon le cas :  a) aucun appel de la déclaration de culpabilité n'a été interjeté et le délai d'appel est expiré; b) il a été interjeté appel de la déclaration de culpabilité mais l'appel a été rejeté, et aucun autre recours n'est possible.	Déclaration de culpabilité
Damages	<b>6.—(1)</b> Subject to subsection (2), a judge awarding damages in an action brought by a victim against a person convicted of committing the offence shall not consider the sentence, if any, imposed on the person convicted.	<b>6</b> (1) Sous réserve du paragraphe (2), le juge qui accorde des dommages-intérêts dans l'action intentée par la victime contre la personne reconnue coupable de l'infraction ne tient pas compte de la peine qui est éventuellement infligée à celle-ci.	Dommages-intérêts
Exception	(2) The judge shall take into consideration the sentence, if any, imposed upon the person convicted before making an award for punitive damages.	(2) Le juge prend en considération toute peine éventuellement infligée à la personne reconnue coupable avant de la condamner à des dommages-intérêts punitifs.	Exception
Application	<b>7.—(1)</b> This Act applies only to matters falling under the classes of subjects enumer-	<b>7</b> (1) La présente loi ne s'applique qu'aux matières tombant dans les catégories	Champ d'application

ated in section 92 of the *Constitution Act, 1867*.

Interpre-  
tation

(2) This Act shall not be interpreted so as to prejudicially affect a right or freedom guaranteed by the *Canadian Charter of Rights and Freedoms*.

Regulations

**8.** The Lieutenant Governor in Council may make regulations prescribing standards to be followed in enforcing the rights of victims under this Act.

Commence-  
ment

**9.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**10.** The short title of this Act is the *Victims' Bill of Rights Act, 1991*.

de sujets énumérés à l'article 92 de la *Loi constitutionnelle de 1867*.

Interprétation

(2) La présente loi n'a pas pour effet de porter atteinte à un droit ou à une liberté garantis par la *Charte canadienne des droits et libertés*.

Règlements

**8** Le lieutenant-gouverneur en conseil peut, par règlement, prescrire les normes qui doivent être suivies pour faire valoir les droits des victimes reconnus par la présente loi.

Entrée en  
vigueur

**9** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Titre abrégé

**10** Le titre abrégé de la présente loi est *Loi de 1991 sur la déclaration des droits des victimes*.







Bill 104

Private Member's Bill

Projet de loi 104

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 104

**An Act to protect the Economy of the  
Border Community of the City of  
Kingston**

**Mr. Sterling**

1st Reading     May 16th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 104

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Kingston**

**M. Sterling**



1<sup>re</sup> lecture     16 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of Kingston by ensuring that government-imposed costs do not undermine the competitiveness of firms in Kingston.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de Kingston en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies à Kingston.

**Bill 104****1991****An Act to protect the Economy of the  
Border Community of the City of  
Kingston**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Kingston.

**2.** This Act comes into force on the day it receives Royal Assent.

**3.** The short title of this Act is the *City of Kingston Economic Protection Act, 1991*.

**Projet de loi 104****1991****Loi sur la protection économique de la  
communauté frontrière de la cité de  
Kingston**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Kingston.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de Kingston*.

Exemption  
from  
proposed tax  
increases

Commence-  
ment

Short title

Exemption  
d'augmenta-  
tions fiscales  
proposées

Entrée en  
vigueur

Titre abrégé





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Bill 105

Private Member's Bill

Projet de loi 105

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 105

**An Act to protect the Economy of the  
Border Community of the City of  
Windsor**

**Mr. Sterling**

1st Reading     May 16th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 105

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Windsor**

**M. Sterling**



1<sup>re</sup> lecture     16 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of Windsor by ensuring that government-imposed costs do not undermine the competitiveness of firms in Windsor.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de Windsor en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies à Windsor.

**An Act to protect the Economy of the  
Border Community of the City of  
Windsor**

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
Windsor**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of Windsor.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de Windsor.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *City of Windsor Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de Windsor*.

Titre abrégé





XB  
B56

Bill 106

Private Member's Bill

Projet de loi 106

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 106

**An Act to protect the Economy of the  
Border Community of the Town of  
Rainy River**

**Mr. Eves**

1st Reading     May 16th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 106

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Rainy River**

**M. Eves**



1<sup>re</sup> lecture     16 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the Town of Rainy River by ensuring that government-imposed costs do not undermine the competitiveness of firms in Rainy River.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la ville de Rainy River en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies à Rainy River.

**An Act to protect the Economy of the  
Border Community of the Town of  
Rainy River**

**Loi sur la protection économique de la  
communauté frontrière de la ville de  
Rainy River**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Exemption  
from  
proposed tax  
increases

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the Town of Rainy River.

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la ville de Rainy River.

Exemption  
d'augmenta-  
tions fiscales  
proposées

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**3.** The short title of this Act is the *Town of Rainy River Economic Protection Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la ville de Rainy River*.

Titre abrégé





Bill 107

Private Member's Bill

Projet de loi 107

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 107

**An Act to protect the Economy of the  
Border Community of the City of  
St. Catharines**

**Mr. Cousens**

1st Reading     May 27th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 107

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
St. Catharines**

**M. Cousens**



1<sup>re</sup> lecture     27 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

#### EXPLANATORY NOTE

The purpose of the Bill is to protect the economy of the border community of the City of St. Catharines by ensuring that government-imposed costs do not undermine the competitiveness of firms in St. Catharines.

#### NOTE EXPLICATIVE

Le but du projet de loi est de protéger l'économie de la communauté frontrière de la cité de St. Catharines en assurant que les coûts imposés par le gouvernement ne réduisent pas la compétitivité des compagnies à St. Catharines.

Bill 107

1991

Projet de loi 107

1991

**An Act to protect the Economy of the  
Border Community of the City of  
St. Catharines**

**Loi sur la protection économique de la  
communauté frontrière de la cité de  
St. Catharines**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The increases proposed in the 1991 Budget of the Province of Ontario to the gasoline tax, the tobacco tax and the volume levy applied to spirits, wine, coolers and beer shall not apply within the legal boundaries of the City of St. Catharines.

**2.** This Act comes into force on the day it receives Royal Assent.

**3.** The short title of this Act is the *City of St. Catharines Economic Protection Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** L'augmentation proposée dans le budget de 1991 de la province de l'Ontario de la taxe sur l'essence, la taxe sur le tabac et la taxe sur le volume appliqué sur le vin, les spiritueux, les coolers et la bière, n'est pas appliquée dans les limites juridiques de la cité de St. Catharines.

**2** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**3** Le titre abrégé de la présente loi est *Loi de 1991 sur la protection économique de la cité de St. Catharines*.

Exemption  
from  
proposed tax  
increases

Commence-  
ment

Short title

Exemption  
d'augmenta-  
tions fiscales  
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Entrée en  
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Titre abrégé





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Bill 108

Government Bill

Projet de loi 108

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 108

**An Act to provide for the making of  
Decisions on behalf of Adults  
concerning the Management of their  
Property and concerning their Personal  
Care**

**The Hon. H. Hampton**  
Attorney General

1st Reading      May 27th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

## Projet de loi 108

**Loi prévoyant la prise de décisions au  
nom d'adultes en ce qui concerne la  
gestion de leurs biens et le soin de leur  
personne**

**L'honorable H. Hampton**  
Procureur général

1<sup>re</sup> lecture      27 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



## EXPLANATORY NOTES

The proposed Act deals comprehensively with property management and personal care decisions made on behalf of mentally incapable persons. The fundamental principle of the Act is that the wishes capable persons express must be respected even if they later become incapable. Part I deals with property matters and Part II deals with matters of personal care. The Act provides for the professional assessment of capacity and the involvement of advocates under the *Advocacy Act*. Some of the other features of the Act are:

1. A person may give a power of attorney for property that remains effective even if he or she becomes incapable. (Sections 7 to 14)
2. A statutory or court-appointed guardian of property may act on behalf of an incapable person. (Sections 15 to 30)
3. In an emergency, the court may appoint the Public Guardian and Trustee as temporary guardian of property. (Section 27)
4. The powers and duties of guardians of property and attorneys under continuing powers of attorney for property are set out in detail. (Sections 31 to 43)
5. A person may give a power of attorney for personal care. The power of attorney comes into operation only when it is validated by the Public Guardian and Trustee on the basis of evidence that the person is incapable. (Sections 44 to 51)
6. A court-appointed guardian of the person may act on behalf of an incapable person. (Sections 52 to 62)
7. The court may make an order for full guardianship, conferring broad powers, if the person is incapable in respect of all the functions of personal care. If the person retains some capacity, the court may make an order for partial guardianship. (Sections 56 and 57)
8. In an emergency, the court may appoint the Public Guardian and Trustee as temporary guardian of the person. (Section 59)
9. The powers and duties of guardians of the person and attorneys under powers of attorney for personal care are set out in detail. (Sections 63 to 66)
10. Part III deals with procedure in guardianship applications. (Sections 67 to 75)
11. When a guardianship application has been commenced, the court may order a professional examination to determine the person's capacity. Enforcement powers are provided. (Sections 76 to 78)
12. It is an offence to obstruct an advocate or a person conducting a court-ordered examination, or to make a false statement. (Section 82)

## NOTES EXPLICATIVES

La Loi proposée traite de tous les aspects de la prise de décisions au nom d'incapables mentaux relativement à la gestion de leurs biens et au soin de leur personne. Selon le principe qui sous-tend la Loi, il faut respecter les désirs qu'expriment les personnes capables même si elles deviennent incapables par la suite. La partie I traite des biens et la partie II, du soin de la personne. La Loi prévoit l'évaluation professionnelle de la capacité et la participation d'intervenants en vertu de la *Loi sur l'intervention*. La Loi comporte notamment les éléments suivants :

1. Une personne peut donner une procuration relative aux biens qui demeure applicable même si la personne devient incapable. (Articles 7 à 14)
2. Un tuteur légal aux biens ou un tuteur aux biens nommé par le tribunal peut agir au nom de l'incapable. (Articles 15 à 30)
3. En cas d'urgence, le tribunal peut nommer le Tuteur et curateur public à titre de tuteur temporaire aux biens. (Article 27)
4. Les pouvoirs et les fonctions des tuteurs aux biens et des procureurs nommés en vertu de procurations perpétuelles relatives aux biens sont énoncés en détail. (Articles 31 à 43)
5. Une personne peut donner une procuration relative au soin de sa personne, laquelle entre en vigueur seulement lorsqu'elle est validée par le Tuteur et curateur public sur la foi d'une preuve de l'incapacité de la personne. (Articles 44 à 51)
6. Un tuteur à la personne nommé par le tribunal peut agir au nom de l'incapable. (Articles 52 à 62)
7. Le tribunal peut rendre une ordonnance de tutelle absolue, qui confère des pouvoirs très généraux, si la personne est incapable à l'égard de toutes les fonctions relatives au soin de sa personne. Si la personne conserve un certain degré de capacité, le tribunal peut rendre une ordonnance de tutelle partielle. (Articles 56 et 57)
8. En cas d'urgence, le tribunal peut nommer le Tuteur et curateur public à titre de tuteur temporaire à la personne. (Article 59)
9. Les pouvoirs et les fonctions des tuteurs à la personne et des procureurs nommés en vertu de procurations relatives au soin de la personne sont énoncés en détail. (Articles 63 à 66)
10. La partie III traite de la procédure à l'égard des requêtes relatives à la tutelle. (Articles 67 à 75)
11. Lorsqu'une requête en tutelle a été introduite, le tribunal peut ordonner un examen professionnel afin d'établir la capacité de la personne. Des pouvoirs d'exécution sont prévus. (Articles 76 à 78)
12. Commet une infraction quiconque entrave un intervenant ou une personne qui fait un examen ordonné par le tribunal, ou fait une fausse déclaration. (Article 82)

**An Act to provide for the making of  
Decisions on behalf of Adults  
concerning the Management of their  
Property and concerning their  
Personal Care**

**Loi prévoyant la prise de décisions au  
nom d'adultes en ce qui concerne la  
gestion de leurs biens et le soin de leur  
personne**

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33. Responsabilité du tuteur
34. Achèvement d'opérations
35. T.C.P., pouvoirs de l'exécuteur
36. Produit de la vente
37. Énoncés
38. Obligations et pouvoirs du procureur
39. Principes directeurs en ce qui concerne les dépenses
40. Requête visant à obtenir des directives
41. Rémunération
42. État financier annuel
43. Reddition des comptes

## PARTIE II

## LA PERSONNE

44. Application de la partie
45. Âge
46. Incapacité de prendre soin de sa personne

## PROCURATIONS RELATIVES AU SOIN DE LA PERSONNE

47. Procuration relative au soin de la personne
48. Passation
49. Validation
50. Évaluation de la capacité
51. Fin de la procuration

## TUTEURS À LA PERSONNE NOMMÉS PAR LE TRIBUNAL

52. Requête en nomination
53. Procédure
54. Tuteur à la personne
55. Ordonnance
56. Tutelle absolue
57. Tutelle partielle
58. Modification
59. Nomination d'un tuteur temporaire en cas d'urgence
60. Requête visant à mettre fin à la tutelle
61. Suspension des pouvoirs du tuteur
62. Procédure

## OBLIGATIONS DES TUTEURS À LA PERSONNE ET DES PROCUREURS AU SOIN DE LA PERSONNE

63. Obligations du tuteur
64. Rapport annuel
65. Changement de résidence de l'incapable
66. Obligations du procureur

## PARTIE III

## PROCÉDURE À L'ÉGARD DES REQUÊTES RELATIVES À LA TUTELLE

67. Signification de l'avis de requête
68. Documents requis
69. Documents facultatifs
70. Documents requis, règlement sommaire, requête en nomination d'un tuteur aux biens
71. Documents requis, règlement sommaire, requête visant à mettre fin à une tutelle des biens
72. Documents requis, règlement sommaire, requête en nomination d'un tuteur à la personne

- 73. Required documents, summary disposition, application to terminate guardianship of the person
- 74. Meeting with advocate
- 75. Summary disposition

#### PART IV MISCELLANEOUS

- 76. Order for examination
- 77. Restraining order
- 78. Order for enforcement
- 79. Statements as evidence
- 80. Mediation
- 81. Refusal to meet with advocate
- 82. Offences
- 83. Regulations
- 84. Commencement
- 85. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

#### GENERAL

##### Definitions

**1.—(1)** In this Act,

“advocate” means a person who works as an advocate, whether on a paid or voluntary basis, for the Advocacy Commission or in a community program operated under the *Advocacy Act, 1991*; (“intervenant”)

“assessor” means a member of a class of persons who are designated by the regulations as being qualified to do assessments of capacity; (“évaluateur”)

“capable” means mentally capable, and “capacity” has a corresponding meaning; (“capable”, “capacité”)

“court” means the Ontario Court (General Division); (“tribunal”)

“dependant” means a person to whom another has an obligation to provide support; (“personne à charge”)

“incapable” means mentally incapable, and “incapacity” has a corresponding meaning; (“incapable”, “incapacité”)

“physician” means a legally qualified medical practitioner; (“médecin”)

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“spouse” means a person of the opposite sex,

- (a) to whom the person is married, or
- (b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
  - (i) have cohabited for at least one year,

- 73. Documents requis, règlement sommaire, requête visant à mettre fin à une tutelle de la personne
- 74. Rencontre avec un intervenant
- 75. Règlement sommaire

#### PARTIE IV DISPOSITIONS DIVERSES

- 76. Ordonnance d'examen
- 77. Ordonnance de ne pas faire
- 78. Ordonnance d'exécution
- 79. Admissibilité des déclarations en preuve
- 80. Médiation
- 81. Refus de rencontrer l'intervenant
- 82. Infractions
- 83. Règlements
- 84. Entrée en vigueur
- 85. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

#### GÉNÉRALITÉS

**1 (1)** Les définitions qui suivent s'appliquent à la présente loi.

##### Définitions

«capable» Mentalement capable. Le substantif «capacité» a un sens correspondant. («capable», «capacity»)

«conjoint» Personne du sexe opposé avec laquelle :

- a) la personne est mariée,
- b) la personne vit dans une union conjugale hors du mariage, si les deux personnes, selon le cas :
  - (i) ont cohabité pendant au moins un an,
  - (ii) sont les parents du même enfant,
  - (iii) ont conclu un accord de cohabitation en vertu de l'article 53 de la *Loi de 1986 sur le droit de la famille*. («spouse»)

«évaluateur» Membre d'une catégorie de personnes que les règlements désignent comme ayant les qualités requises pour faire des évaluations de capacité. («assessor»)

«incapable» Mentalement incapable. Les substantifs «incapable» et «incapacité» ont un sens correspondant. («incapable», «incapacity»)

«intervenant» Personne qui travaille comme intervenant, contre rémunération ou à titre bénévole, pour la commission d'intervention ou dans le cadre d'un programme communautaire offert en vertu de la *Loi de 1991 sur l'intervention*. («advocate»)

«médecin» Médecin dûment qualifié. («physician»)



- (ii) are together the parents of a child, or
- (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*. ("conjoint")

## Partners

(2) Two persons are partners for the purpose of this Act if they have lived together for at least one year and have a close personal relationship that others recognize is of primary importance in both persons' lives.

## Meaning of "explain"

(3) An advocate or other person whom this Act requires to explain a matter satisfies that requirement by explaining the matter to the best of his or her ability and in a manner that addresses the special needs of the person receiving the explanation, whether that person understands it or not. ("expliquer")

## Presumption of capacity

**2.**—(1) A person who is eighteen years of age or more is presumed to be capable of entering into a contract.

## Idem

(2) A person who is sixteen years of age or more is presumed to be capable of giving or refusing consent in connection with his or her own personal care.

## Exception

(3) A person is entitled to rely upon the presumption of capacity with respect to another person unless he or she has reasonable grounds to believe that the other person is incapable of entering into the contract or of giving or refusing consent, as the case may be.

## Onus of proof, contracts and gifts

(4) In a proceeding in respect of a contract entered into or a gift made by a person while his or her property is under guardianship, or within one year before the creation of the guardianship, the onus of proof that the other person who entered into the contract or received the gift did not have reasonable grounds to believe the person incapable is on that other person.

## Counsel for person whose capacity is in issue

**3.**—(1) If the capacity of a person who does not have legal representation is in issue in a proceeding under this Act,

- (a) the court may direct that the Public Guardian and Trustee arrange for legal representation to be provided for the person; and
- (b) the person shall be deemed to have capacity to retain and instruct counsel.

## Responsibility for legal fees

(2) If legal representation is provided for a person in accordance with clause (1) (a) and no certificate is issued under the *Legal Aid*

«personne à charge» Personne à qui une autre personne est tenue de fournir des aliments. («dependant»)

«prescrit» Prescrit par les règlements pris en application de la présente loi. («prescribed»)

«tribunal» La Cour de l'Ontario (Division générale). («court»)

## Partenaires

(2) Deux personnes sont partenaires pour l'application de la présente loi si elles vivent ensemble depuis au moins un an et qu'elles ont des rapports personnels étroits que des tiers reconnaissent comme étant d'une importance capitale dans la vie des deux personnes.

## Définition d'«expliquer»

(3) Un intervenant ou une autre personne de qui la présente loi exige qu'il explique une question satisfait à cette exigence en expliquant la question de son mieux et de façon à tenir compte des besoins particuliers de la personne qui reçoit l'explication, que cette personne la comprenne ou non. («explain»)

## Présomption de capacité

**2** (1) La personne âgée de dix-huit ans ou plus est présumée capable de conclure un contrat.

## Idem

(2) La personne âgée de seize ans ou plus est présumée capable de donner ou de refuser son consentement relativement au soin de sa personne.

## Exception

(3) Une personne a le droit de se fier à la présomption de capacité d'une autre personne à moins qu'elle n'ait des motifs raisonnables de croire que cette autre personne est incapable de conclure le contrat ou de donner ou refuser son consentement, selon le cas.

## Fardeau de la preuve, contrats et dons

(4) Dans une instance à l'égard d'un contrat conclu ou d'un don fait par une personne pendant que ses biens sont sous tutelle ou au cours de l'année précédant l'ouverture de la tutelle, le fardeau de la preuve que l'autre personne qui a conclu le contrat ou reçu le don n'avait pas de motifs raisonnables de croire que la personne était incapable revient à cette autre personne.

## Avocat représentant une personne dont la capacité est en cause

**3** (1) Si la capacité d'une personne qui n'est pas représentée par un avocat est une question en litige dans une instance introduite en vertu de la présente loi :

- a) le tribunal peut ordonner que le Tuteur et curateur public prenne des dispositions pour faire représenter la personne par un avocat;
- b) la personne est réputée capable de retenir les services d'un avocat et de le mandater.

## Paiement des honoraires d'avocat

(2) Si une personne est représentée par un avocat conformément à l'alinéa (1) a) et qu'aucun certificat n'est délivré en vertu de

Act in connection with the proceeding, the person is responsible for the legal fees.

la loi intitulée *Legal Aid Act* («*Loi sur l'aide juridique*») relativement à l'instance, les honoraires d'avocat sont à la charge de la personne.

## PART I

### PROPERTY

Application of Part

**4.** This Part applies to decisions on behalf of persons who are at least eighteen years old.

Age and residency

**5.** To exercise a power of decision under this Part on behalf of another person, a person must be at least eighteen years old and a resident of Ontario.

Incapacity to manage property

**6.** A person is incapable of managing property if the person is not able to understand information that is relevant to making a decision in the management of his or her property, or is not able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

### CONTINUING POWERS OF ATTORNEY FOR PROPERTY

Continuing power of attorney for property

**7.—(1)** A power of attorney for property is a continuing power of attorney if it expressly states that the authority given may be exercised during the grantor's incapacity to manage property.

Idem

**(2)** The continuing power of attorney may authorize the person named as attorney to do on the grantor's behalf anything in respect of property that the grantor could do if capable, except make a will.

P.G.T. may be attorney

**(3)** The continuing power of attorney may name the Public Guardian and Trustee as attorney, with his or her consent.

Conditions and restrictions

**(4)** The continuing power of attorney is subject to this Part, and to the conditions and restrictions that are contained in the power of attorney and are consistent with this Act.

Postponed effectiveness

**(5)** The continuing power of attorney may provide that it comes into effect on a specified date or when a specified contingency happens.

Form

**(6)** The continuing power of attorney may be in the prescribed form.

Capacity to give continuing power of attorney

**8.—(1)** A person is capable of giving a continuing power of attorney if he or she,

(a) knows what kind of property he or she has and its approximate value;

(b) is aware of obligations owed to his or her dependants;

## PARTIE I

### BIENS

**4** La présente partie s'applique aux décisions prises au nom de personnes âgées d'au moins dix-huit ans.

Application de la partie

**5** Pour exercer un pouvoir décisionnel au nom d'autrui en vertu de la présente partie, une personne doit avoir au moins dix-huit ans et être résidente de l'Ontario.

Âge et résidence

**6** Une personne est incapable de gérer ses biens si elle ne peut pas comprendre les renseignements qui sont pertinents à la prise d'une décision concernant la gestion de ses biens, ou si elle ne peut pas évaluer les conséquences raisonnablement prévisibles d'une décision ou d'une absence de décision.

Incapacité de gérer ses biens

### PROCURATIONS PERPÉTUELLES RELATIVES AUX BIENS

**7 (1)** La procuration relative aux biens est perpétuelle si elle prévoit expressément que les pouvoirs donnés peuvent être exercés pendant l'incapacité du mandant de gérer ses biens.

Procurations perpétuelles relatives aux biens

**(2)** La procuration perpétuelle peut autoriser la personne nommée à titre de procureur à faire, au nom du mandant, tout ce que pourrait faire ce dernier relativement à ses biens s'il était capable, à l'exception de son testament.

Idem

**(3)** La procuration perpétuelle peut nommer le Tuteur et curateur public à titre de procureur, avec son consentement.

Le T.C.P. peut être le procureur

**(4)** La procuration perpétuelle est subordonnée à la présente partie et aux conditions et restrictions qui sont énoncées dans la procuration et qui sont compatibles avec la présente loi.

Conditions et restrictions

**(5)** La procuration perpétuelle peut prévoir qu'elle prend effet à une date précisée ou lorsque se présente une éventualité précisée.

Prise d'effet reportée

**(6)** La procuration perpétuelle peut être rédigée selon la formule prescrite.

Formule

**8 (1)** Une personne est capable de donner une procuration perpétuelle si :

Capacité de donner une procuration perpétuelle

a) elle sait quel genre de biens elle possède et en connaît la valeur approximative;

b) elle est consciente des obligations qu'elle a envers les personnes à sa charge;



- (c) knows that the attorney will be able to do on the person's behalf anything in respect of property that the person could do if capable, except make a will, subject to the conditions and restrictions set out in the power of attorney;
- (d) knows that the attorney must account for his or her dealings with the person's property;
- (e) knows that he or she may, if capable, revoke the continuing power of attorney;
- (f) appreciates that unless the attorney manages the property prudently its value may decline; and
- (g) appreciates the possibility that the attorney could misuse the authority given to him or her.

(2) A person is capable of revoking a continuing power of attorney if he or she is capable of giving one.

**9.**—(1) A continuing power of attorney is valid if the grantor, at the time of executing it, is capable of giving it, even if he or she is incapable of managing property.

(2) The continuing power of attorney remains valid even if, after executing it, the grantor becomes incapable of giving a continuing power of attorney.

(3) If the continuing power of attorney provides that it comes into effect when the grantor becomes incapable of managing property but does not provide a method for determining whether that situation has arisen, subsections 16 (1), (2) and (3) apply and the power of attorney comes into effect when the attorney is notified of the certificate of incapacity.

**10.**—(1) A continuing power of attorney shall be executed in the presence of two witnesses in the manner described in subsection (3).

(2) The following persons shall not be witnesses:

1. The attorney or the attorney's spouse or partner.
2. The grantor's spouse or partner.
3. A person who is related to the grantor or attorney by blood, adoption or marriage or whom the grantor or attorney has demonstrated a settled intention to treat as a child of his or her family.

(c) elle sait que le procureur pourra faire au nom de la personne, à l'égard de ses biens, tout ce que la personne pourrait faire si elle était capable, sauf faire un testament, sous réserve des conditions et restrictions énoncées dans la procuration;

(d) elle sait que le procureur doit rendre compte des mesures qu'il prend à l'égard des biens de la personne;

(e) elle sait qu'elle peut, si elle est capable, révoquer la procuration perpétuelle;

(f) elle se rend compte que si le procureur ne gère pas ses biens avec prudence, leur valeur pourrait diminuer;

(g) elle se rend compte de la possibilité que le procureur puisse abuser des pouvoirs qu'elle lui donne.

(2) Une personne est capable de révoquer une procuration perpétuelle si elle est capable d'en donner une.

**9** (1) La procuration perpétuelle est valide si le mandant, au moment de la passation, est capable de la donner, même s'il est incapable de gérer ses biens.

(2) La procuration perpétuelle demeure valide même si, après la passation, le mandant devient incapable de donner une procuration perpétuelle.

(3) Si la procuration perpétuelle prévoit qu'elle prend effet lorsque le mandant devient incapable de gérer ses biens, mais ne prévoit aucune méthode pour déterminer s'il l'est devenu, les paragraphes 16 (1), (2) et (3) s'appliquent et la procuration prend effet lorsque le procureur est avisé du certificat d'incapacité.

**10** (1) La procuration perpétuelle est passée devant deux témoins de la manière décrite au paragraphe (3).

(2) Les personnes suivantes ne doivent pas être témoins :

1. Le procureur ou le conjoint ou partenaire du procureur.
2. Le conjoint ou le partenaire du mandant.
3. Quiconque est lié au mandant ou au procureur par le sang, l'adoption ou le mariage, ainsi que la personne à l'égard de laquelle le mandant ou le procureur a manifesté l'intention bien arrêtée de la traiter comme s'il s'agissait d'un enfant de sa famille.

Capacity to revoke

Validity despite incapacity

Idem

Determining incapacity

Execution

Persons who shall not be witnesses

Capacité de révoquer

Validité malgré l'incapacité

Idem

Détermination de l'incapacité

Passation

Personnes qui ne doivent pas être témoins

4. The owner, manager, employee or agent of a facility where the grantor is a boarder or receives personal care.
5. A person who is a party to a proceeding to which the grantor is also a party.
6. A person whose property is under guardianship or who has a guardian of the person.
7. A person who is less than eighteen years old.

Formalities  
of execution  
by witnesses

(3) Each witness shall sign the document as witness and shall at the same time make a written statement in the prescribed form indicating that he or she has no reason to believe that the grantor is incapable of giving a continuing power of attorney.

Declaration  
of effective-  
ness

(4) If a person listed in subsection (2) witnesses the execution of the continuing power of attorney, the power is ineffective, but the court may declare it effective, on any person's application, if satisfied that it is in the interests of the grantor or of his or her dependants to do so.

Termination

**11.—**(1) A continuing power of attorney is terminated,

- (a) when the attorney dies, becomes incapable or resigns, unless the power of attorney provides for the substitution of another person and that person is able and willing to act;
- (b) when the Public Guardian and Trustee becomes the grantor's statutory guardian of property under section 15 or 16;
- (c) when the court appoints a guardian of property for the grantor under section 22;
- (d) when the power of attorney is revoked;
- (e) when the grantor dies.

Execution of  
revocation

(2) The revocation shall be in writing and shall be executed in the same way as a continuing power of attorney.

Exercise  
after termi-  
nation or  
invalidity

**12.—**(1) If a continuing power of attorney is terminated or becomes invalid, any subsequent exercise of the power by the attorney is nevertheless valid as between the grantor or the grantor's estate and any person, including the attorney, who acted in good faith and without knowledge of the termination or invalidity.

Idem,  
improper  
execution

(2) If a continuing power of attorney is ineffective because a person listed in subsection 10 (2) witnessed its execution, subsection (1) applies, with necessary modifications.

4. Le propriétaire, le directeur, l'employé ou le mandataire d'un établissement où le mandant est pensionnaire ou reçoit des soins.

5. Quiconque est partie à une instance à laquelle le mandant est également partie.

6. Quiconque a un tuteur aux biens ou un tuteur à la personne.

7. Quiconque est âgé de moins de dix-huit ans.

(3) Chaque témoin signe le document en cette qualité et fait, en même temps, une déclaration écrite selon la formule prescrite portant qu'il n'a aucune raison de croire que le mandant est incapable de donner une procuration perpétuelle.

(4) Si une personne visée au paragraphe (2) est témoin à la passation de la procuration perpétuelle, celle-ci est inapplicable, mais le tribunal peut la déclarer applicable, à la requête de quiconque, s'il est convaincu que c'est dans l'intérêt du mandant ou des personnes à sa charge.

**11** (1) La procuration perpétuelle prend fin :

- a) lorsque le procureur décède, devient incapable ou démissionne, à moins que la procuration ne prévoie son remplacement par une autre personne et que cette personne puisse et veuille agir à ce titre;
- b) lorsque le Tuteur et curateur public devient tuteur légal aux biens du mandant en vertu de l'article 15 ou 16;
- c) lorsque le tribunal nomme un tuteur aux biens à l'égard du mandant en vertu de l'article 22;
- d) lorsque la procuration est révoquée;
- e) lorsque le mandant décède.

(2) La révocation se fait par écrit. Elle est passée de la même manière que la procuration perpétuelle.

**12** (1) Si une procuration perpétuelle a pris fin ou devient nulle, l'exercice de la procuration par le procureur est néanmoins opposable au mandant ou à sa succession par quiconque, y compris le procureur, a agi de bonne foi et ignorait que la procuration avait été révoquée ou était devenue nulle.

(2) Si une procuration perpétuelle est inapplicable parce qu'une personne visée au paragraphe 10 (2) a été témoin à sa passation, le paragraphe (1) s'applique avec les adaptations nécessaires.

Formalités de  
passation par  
les témoins

Déclaration  
d'applicabilité

Fin de la pro-  
curation

Passation de  
la révocation

Exercice mal-  
gré la fin ou  
la nullité

Idem, passa-  
tion irrégu-  
lière



Certain  
existing  
powers of  
attorney  
preserved

**13.** Despite the repeal of section 5 of the *Powers of Attorney Act*, being chapter 386 of the Revised Statutes of Ontario, 1980 by subsection 21 (3) of the *Consent and Capacity Statute Law Amendment Act, 1991*, a power of attorney that is executed on or before the day this Act comes into force or within six months after that day shall be deemed to be a continuing power of attorney for the purposes of this Act if,

- (a) it contains a provision expressly stating that it may be exercised during any subsequent legal incapacity of the grantor, as described in section 5 of the *Powers of Attorney Act*; and
- (b) it is executed in accordance with the *Powers of Attorney Act* and is otherwise valid.

Continuing  
powers of  
attorney  
from other  
jurisdictions

**14.** A continuing power of attorney that is executed outside Ontario and that would be valid in the jurisdiction of its execution is valid to the same extent in Ontario.

#### STATUTORY GUARDIANS OF PROPERTY

P.G.T. as  
statutory  
guardian

**15.** If a certificate is issued under the *Mental Health Act* certifying that a person who is a patient of a psychiatric facility as defined in that Act is incapable of managing property, the Public Guardian and Trustee is the person's statutory guardian of property.

Assessment  
of capacity

**16.—(1)** An assessor may perform an assessment of a person's capacity to manage property if that capacity is questioned.

Conditions

**(2)** The assessment shall not be performed unless the assessor first explains to the person,

- (a) the purpose of the assessment;
- (b) the significance and effect of a certificate of incapacity; and
- (c) the person's right to refuse to be assessed.

Certificate of  
incapacity

**(3)** The assessor may complete and sign a certificate of incapacity in the prescribed form if he or she concludes that the person is incapable of managing property.

Copies

**(4)** The assessor shall ensure that copies of the certificate of incapacity are given to the Public Guardian and Trustee and to an advocate.

Advocate

**(5)** An advocate shall promptly meet with the person to whom the certificate relates and shall,

- (a) notify the person of the certificate of incapacity;

**13** Malgré l'abrogation de l'article 5 de la loi intitulée *Powers of Attorney Act* («*Loi sur les procurations*»), qui constitue le chapitre 386 des Lois refondues de l'Ontario de 1980, par le paragraphe 21 (3) de la *Loi de 1991 modifiant des lois en ce qui concerne le consentement et la capacité*, la procuration qui est passée le jour de l'entrée en vigueur de la présente loi ou avant ce jour, ou dans les six mois qui suivent ce jour, est réputée une procuration perpétuelle pour l'application de la présente loi si les conditions suivantes sont réunies :

- a) la procuration prévoit expressément qu'elle peut être exercée pendant toute incapacité juridique ultérieure du mandant, comme le décrit l'article 5 de la *Loi sur les procurations*;
- b) la procuration est passée conformément à la *Loi sur les procurations* et est valide à tous autres égards.

**14** Une procuration perpétuelle qui est passée à l'extérieur de l'Ontario et qui serait valide dans le ressort où elle a été passée est valide dans la même mesure en Ontario.

#### TUTEURS LÉGAUX AUX BIENS

**15** Si un certificat est délivré en vertu de la loi intitulée *Mental Health Act* («*Loi sur la santé mentale*») portant qu'un malade d'un établissement psychiatrique au sens de cette loi est incapable de gérer ses biens, le Tuteur et curateur public devient le tuteur légal aux biens de cette personne.

**16 (1)** Un évaluateur peut évaluer la capacité d'une personne de gérer ses biens si cette capacité est mise en doute.

**(2)** L'évaluation n'a lieu que si l'évaluateur explique préalablement à la personne les points suivants :

- a) l'objet de l'évaluation;
- b) l'importance et l'effet d'un certificat d'incapacité;
- c) le droit de la personne de refuser de subir une évaluation.

**(3)** L'évaluateur peut remplir et signer un certificat d'incapacité selon la formule prescrite s'il conclut que la personne est incapable de gérer ses biens.

**(4)** L'évaluateur fait en sorte que des copies du certificat d'incapacité soient remises au Tuteur et curateur public et à un intervenant.

**(5)** Un intervenant rencontre promptement la personne qui fait l'objet du certificat et fait ce qui suit :

- a) il lui donne avis du certificat d'incapacité;

Maintien de  
certaines pro-  
curations  
existantes

Procurations  
perpétuelles  
d'autres res-  
sorts

T.C.P. agis-  
sant à titre  
de tuteur  
légal

Évaluation de  
la capacité

Conditions

Certificat  
d'incapacité

Remise de  
copies

Intervenant

- (b) explain to the person the significance and effect of the certificate;
- (c) explain to the person his or her right to refuse the statutory guardianship of property; and
- (d) ask the person whether he or she wishes to refuse the statutory guardianship.

Notice to  
P.G.T.

(6) The advocate shall promptly notify the Public Guardian and Trustee in writing that the meeting took place and whether the person to whom the certificate applies refuses the statutory guardianship.

Statutory  
guardianship

(7) As soon as he or she receives the advocate's notification that the person does not refuse the statutory guardianship, the Public Guardian and Trustee is the person's statutory guardian of property.

Application  
to replace  
P.G.T.

**17.—(1)** The attorney under an incapable person's continuing power of attorney may apply to the Public Guardian and Trustee to replace him or her as the person's statutory guardian of property.

Idem

(2) The incapable person's spouse, partner, child, parent, brother or sister may likewise apply, but shall not be appointed statutory guardian under this section if there is also an application by the attorney under a continuing power of attorney.

Form of  
application

(3) The application shall be in the prescribed form and shall be accompanied by a management plan for the property in the prescribed form.

Statement

(4) The application shall contain a statement by the applicant indicating that he or she has been in personal contact with the incapable person during the preceding twelve-month period, that their relationship is friendly and that the applicant is willing to perform all duties in respect of the incapable person's property.

Security

(5) An application by an applicant described in subsection (2) shall be accompanied by evidence that the applicant is able to provide security, in a form approved by the Public Guardian and Trustee, for the value of the property, as well as the applicant's undertaking to provide that security if he or she becomes statutory guardian.

Idem

(6) The court may, on application, order that the requirement for security be dispensed with, that security be provided in a form not approved by the Public Guardian and Trustee, or that the amount required be reduced, and may make its order subject to conditions.

- b) il lui explique l'importance et l'effet du certificat;
- c) il lui explique son droit de refuser la tutelle légale de ses biens;
- d) il lui demande si elle désire refuser la tutelle légale.

(6) L'intervenant informe promptement le Tuteur et curateur public, au moyen d'un avis écrit, que la rencontre a eu lieu, et précise si la personne visée par le certificat refuse la tutelle légale.

Avis au  
T.C.P.

(7) Dès qu'il reçoit l'avis de l'intervenant selon lequel la personne ne refuse pas la tutelle légale, le Tuteur et curateur public devient le tuteur légal aux biens de la personne.

Tutelle légale

**17 (1)** Le procureur constitué en vertu de la procuration perpétuelle d'un incapable peut, par voie de requête, demander au Tuteur et curateur public de le remplacer comme tuteur légal aux biens de l'incapable.

Requête  
visant à rem-  
placer le  
T.C.P.

(2) Le conjoint, le partenaire, l'enfant, le père, la mère, le frère ou la soeur de l'incapable peut également présenter une requête, mais ne sera pas nommé tuteur légal aux termes du présent article si un procureur constitué en vertu d'une procuration perpétuelle présente lui aussi une requête.

Idem

(3) La requête est rédigée selon la formule prescrite. Un plan de gestion des biens dressé selon la formule prescrite y est joint.

Formule de  
requête

(4) La requête comprend une déclaration du requérant portant qu'il a été personnellement en contact avec l'incapable au cours des douze mois précédents, qu'il entretient des rapports amicaux avec lui et qu'il est prêt à s'acquitter de toutes les obligations relatives aux biens de l'incapable.

Déclaration

(5) Est jointe à la requête présentée par une personne visée au paragraphe (2) la preuve que cette personne est en mesure de fournir un cautionnement, sous une forme que le Tuteur et curateur public approuve, pour la valeur des biens, ainsi que son engagement à fournir le cautionnement si elle devient tuteur légal.

Cautionne-  
ment

(6) Le tribunal peut, sur demande, ordonner que le montant du cautionnement soit réduit, que le cautionnement soit fourni sous une forme non approuvée par le Tuteur et curateur public ou que le requérant soit dispensé de fournir un cautionnement. Il peut également assortir son ordonnance de conditions.

Idem



Certificate	(7) If the Public Guardian and Trustee is satisfied that the applicant is suitable to manage the property and that the management plan is appropriate, the Public Guardian and Trustee shall certify that the applicant is statutory guardian of property in his or her place and has power to act as such.	(7) Si le Tuteur et curateur public est convaincu que le requérant est apte à gérer les biens et que le plan de gestion est approprié, il certifie que le requérant le remplace à titre de tuteur légal aux biens et qu'il a le pouvoir d'agir en cette qualité.	Certificat
Two or more guardians	(8) The Public Guardian and Trustee may certify that two or more applicants are joint statutory guardians of property, or that each of them is guardian for a specified part of the property.	(8) Le Tuteur et curateur public peut certifier que deux requérants ou plus sont tuteurs légaux conjoints aux biens, ou que chacun d'eux est tuteur relativement à une partie précisée des biens.	Deux tuteurs ou plus
Duty of guardian	(9) A person who replaces the Public Guardian and Trustee as statutory guardian of property shall manage the property in accordance with the management plan, subject to any conditions imposed by the court.	(9) La personne qui remplace le Tuteur et curateur public à titre de tuteur légal aux biens gère les biens conformément au plan de gestion, sous réserve des conditions que le tribunal impose, le cas échéant.	Obligations du tuteur
Refusal to issue certificate	<b>18.</b> —(1) If the Public Guardian and Trustee refuses to issue a certificate for a statutory guardian of property under subsection 17 (7), he or she shall give the applicant reasons, in writing, for the refusal.	<b>18</b> (1) Si le Tuteur et curateur public refuse de délivrer un certificat attestant la nomination d'un tuteur légal aux biens aux termes du paragraphe 17 (7), il en donne les motifs par écrit au requérant.	Refus de délivrer un certificat
Dispute, application to court	(2) If the applicant disputes the refusal by giving the Public Guardian and Trustee notice in writing, the Public Guardian and Trustee shall apply to the court to decide the matter.	(2) Si le requérant conteste le refus en en donnant avis écrit au Tuteur et curateur public, celui-ci demande au tribunal, par voie de requête, de trancher la question.	Contestation, requête
Review by court	(3) The court shall decide whether the applicant should, in the circumstances, replace the Public Guardian and Trustee.	(3) Le tribunal décide si, dans les circonstances, le requérant devrait remplacer le Tuteur et curateur public.	Révision par le tribunal
Criteria	(4) In the case of a dispute by an applicant referred to in subsection 17 (2), the court shall also take into consideration the incapable person's current wishes, if they can be ascertained, and the closeness of the applicant's personal relationship to the person.	(4) En cas de contestation par un requérant visé au paragraphe 17 (2), le tribunal tient également compte des désirs courants de l'incapable, s'ils peuvent être établis, et de l'étroitesse des rapports personnels entre le requérant et l'incapable.	Critères
Order	(5) The court may, in its order, impose such conditions on the guardian's powers as it considers appropriate.	(5) Dans son ordonnance, le tribunal peut subordonner les pouvoirs du tuteur aux conditions qu'il juge appropriées.	Ordonnance
Where statutory guardian ceases to act	<b>19.</b> —(1) If a statutory guardian of property ceases to act as such for any reason, the Public Guardian and Trustee may act as the incapable person's statutory guardian until a new application to the Public Guardian and Trustee under section 17 or an application to the court under section 22 has been disposed of.	<b>19</b> (1) Si le tuteur légal aux biens cesse d'agir à ce titre pour une raison quelconque, le Tuteur et curateur public peut le remplacer jusqu'à ce qu'une nouvelle requête présentée au Tuteur et curateur public en vertu de l'article 17 ou une requête présentée au tribunal en vertu de l'article 22 soit réglée.	Cas où le tuteur légal cesse d'agir
Idem	(2) If he or she is satisfied that it is necessary to do so in order to prevent harm, the Public Guardian and Trustee shall act as guardian of property for an incapable person.	(2) S'il est convaincu que cela est nécessaire pour éviter un préjudice, le Tuteur et curateur public agit à titre de tuteur aux biens à l'égard d'un incapable.	Idem
Termination of statutory guardianship	<b>20.</b> —(1) A statutory guardianship of property is terminated by the appointment of a guardian by the court under section 22.	<b>20</b> (1) La nomination d'un tuteur par le tribunal aux termes de l'article 22 met fin à la tutelle légale des biens.	Fin de la tutelle légale
Idem	(2) A statutory guardianship created under section 15 (psychiatric patient, certificate of incapacity) is terminated by the following events:	(2) Une tutelle légale ouverte en vertu de l'article 15 (malade dans un établissement psychiatrique, certificat d'incapacité) prend fin dans les cas suivants :	Idem

1. Notice to the guardian that the certificate of incapacity to manage property has been cancelled under section 38 of the *Mental Health Act*.
2. Notice to the guardian that the patient has been discharged, unless the guardian has also received a notice of continuance under subsection 39 (2) of the *Mental Health Act*.
3. The expiration of six months after the patient's discharge, if a notice of continuance has been given.
4. The expiration of the time for an appeal from a decision under the *Mental Health Act* by the Consent and Capacity Review Board that the person is capable of managing property, if no appeal is taken, or if an appeal is taken, its final disposition.

Notice

(3) A statutory guardianship created under section 16 (assessment of capacity) may be terminated by notice, given by the person whose property is under guardianship to the guardian or by the guardian to the person and the Public Guardian and Trustee.

Advocate

(4) A guardian who gives or receives a notice of termination shall request that an advocate meet with the person whose property is under guardianship.

Statement

(5) The guardianship is not terminated until the advocate makes a statement in writing to the Public Guardian and Trustee certifying that he or she has met with the person whose property is under guardianship, has explained the significance of the notice and is satisfied that the person wishes to terminate the guardianship.

Notices

**21.** If the Public Guardian and Trustee receives a notice concerning a statutory guardianship although another person is the guardian, he or she shall ensure that it is promptly forwarded to that person.

#### COURT-APPOINTED GUARDIANS OF PROPERTY

Application for appointment

**22.—(1)** The court may, on any person's application, appoint a guardian of property for a person who is incapable of managing property if, as a result, it is necessary for decisions to be made on his or her behalf by a person who is authorized to do so.

Idem

(2) An application may be made under subsection (1) even though there is a statutory guardian.

Procedure

**23.** Part III (Procedure) applies to applications to appoint guardians of property.

1. Le tuteur est avisé que le certificat d'incapacité de gérer des biens a été annulé en vertu de l'article 38 de la *Loi sur la santé mentale*.
2. Le tuteur est avisé que le malade a obtenu son congé, à moins que le tuteur n'ait également reçu un avis de prorogation de la curatelle délivré en vertu du paragraphe 39 (2) de la *Loi sur la santé mentale*.
3. Six mois se sont écoulés depuis la mise en congé du malade, si un avis de prorogation de la curatelle a été donné.
4. Le délai prévu pour interjeter appel d'une décision rendue aux termes de la *Loi sur la santé mentale* par la Commission de révision du consentement et de la capacité, selon laquelle la personne est capable de gérer ses biens, expire, si aucun appel n'est interjeté, ou, si la décision est portée en appel, l'appel est réglé de façon définitive.

(3) Il peut être mis fin à une tutelle légale ouverte en vertu de l'article 16 (évaluation de la capacité) au moyen d'un avis donné au tuteur par la personne dont les biens sont mis sous tutelle, ou à cette personne et au Tuteur et curateur public par le tuteur.

Avis

(4) Le tuteur qui donne ou reçoit un avis de fin de tutelle demande qu'un intervenant rencontre la personne dont les biens sont mis sous tutelle.

Intervenant

(5) Il n'est pas mis fin à la tutelle tant que l'intervenant ne remet pas au Tuteur et curateur public une déclaration écrite selon laquelle il a rencontré la personne dont les biens sont mis sous tutelle, lui a expliqué l'importance de l'avis et est convaincu que la personne désire mettre fin à la tutelle.

Déclaration

**21** Si le Tuteur et curateur public reçoit un avis relatif à une tutelle légale bien qu'une autre personne soit le tuteur, il fait transmettre l'avis promptement à cette personne.

Avis

#### TUTEURS AUX BIENS NOMMÉS PAR LE TRIBUNAL

**22** (1) Le tribunal peut, à la requête de quiconque, nommer un tuteur aux biens à l'égard d'une personne si celle-ci est incapable de gérer ses biens et que, en conséquence, il faut qu'une personne autorisée à le faire prenne des décisions en son nom.

Requête en nomination

(2) Une requête peut être présentée en vertu du paragraphe (1) même s'il existe un tuteur légal.

Idem

**23** La partie III (Procédure) s'applique aux requêtes en nomination d'un tuteur aux biens.

Procédure



Who may not be appointed guardian	<b>24.</b> —(1) A person who provides health care or residential, social, training or support services to an incapable person for compensation shall not be appointed as his or her guardian of property.	<b>24</b> (1) La personne qui fournit des soins médicaux, des services sociaux, des services en établissement, des services de formation ou des services de soutien à un incapable contre rémunération ne doit pas être nommée tuteur aux biens de ce dernier.	Personnes qui ne peuvent pas être nommées tuteurs
Idem	(2) A person who does not reside in Ontario shall not be appointed as guardian of property.	(2) La personne qui ne réside pas en Ontario ne doit pas être nommée tuteur aux biens.	Idem
Exception	(3) Subsection (1) does not apply to the incapable person's spouse, partner or relative or to the following persons:	(3) Le paragraphe (1) ne s'applique pas au conjoint, au partenaire ou au parent de l'incapable ni aux personnes suivantes :	Exception
	1. The incapable person's guardian of the person.	1. Le tuteur à la personne de l'incapable.	
	2. The attorney for personal care.	2. Le procureur au soin de la personne.	
	3. The attorney under a continuing power of attorney.	3. Le procureur constitué en vertu d'une procuration perpétuelle.	
Criteria	(4) Except in the case of an application that is being dealt with under section 75 (summary disposition), the court shall consider,	(4) Sauf dans le cas d'une requête traitée en vertu de l'article 75 (règlement sommaire), le tribunal tient compte des critères suivants :	Critères
	(a) whether the proposed guardian is the attorney under a continuing power of attorney;	a) le fait que le tuteur proposé est le procureur constitué en vertu d'une procuration perpétuelle;	
	(b) the incapable person's current wishes, if they can be ascertained; and	b) les désirs courants de l'incapable, s'ils peuvent être établis;	
	(c) the closeness of the applicant's personal relationship to the incapable person.	c) l'étroitesse des rapports personnels entre le requérant et l'incapable.	
Two or more guardians	(5) The court may, with their consent, appoint two or more persons as joint guardians of property or may appoint each of them as guardian for a specified part of the property.	(5) Le tribunal peut, avec leur consentement, nommer deux personnes ou plus à titre de tuteurs conjoints aux biens, ou il peut nommer chacune d'entre elles tuteur relativement à une partie précise des biens.	Deux tuteurs ou plus
Finding of incapacity	<b>25.</b> —(1) An order appointing a guardian of property for a person shall include a finding that the person is incapable of managing property and that, as a result, it is necessary for decisions to be made on his or her behalf by a person who is authorized to do so.	<b>25</b> (1) L'ordonnance de nomination d'un tuteur aux biens à l'égard d'une personne comprend une constatation selon laquelle cette personne est incapable de gérer ses biens et, en conséquence, il faut qu'une personne autorisée à le faire prenne des décisions en son nom.	Constatation d'incapacité
Contents of order	(2) An order appointing a guardian of property may,	(2) L'ordonnance de nomination d'un tuteur aux biens peut :	Contenu de l'ordonnance
	(a) require that the guardian post security in the manner and amount that the court considers appropriate;	a) exiger que le tuteur dépose un cautionnement de la manière et selon le montant que le tribunal juge appropriés;	
	(b) make the appointment for a limited period as the court considers appropriate;	b) préciser que la nomination est valide pour une période limitée, selon ce que le tribunal juge approprié;	
	(c) impose such other conditions on the appointment as the court considers appropriate.	c) subordonner la nomination aux autres conditions que le tribunal juge appropriées.	
Exception	(3) Clause (2) (a) does not apply if the guardian is the Public Guardian and Trustee or a trust corporation within the meaning of the <i>Loan and Trust Corporations Act, 1987</i> .	(3) L'alinéa (2) a) ne s'applique pas si le tuteur est le Tuteur et curateur public ou une compagnie de fiducie au sens de la <i>Loi de 1987 sur les compagnies de prêt et de fiducie</i> .	Exception

Variation	<b>26.</b> —(1) The court may, on any person's application, vary an order appointing a guardian of property or substitute another person as guardian.	<b>26</b> (1) Le tribunal peut, à la requête de quiconque, modifier une ordonnance de nomination d'un tuteur aux biens ou remplacer ce dernier par une autre personne.	Modification
Notice, advocate	(2) Sections 67 (service of notice, parties) and 74 (meeting with advocate) apply to the application, with necessary modifications.	(2) Les articles 67 (signification de l'avis, parties) et 74 (rencontre avec un intervenant) s'appliquent à la requête avec les adaptations nécessaires.	Avis, intervenant
Serious adverse effects	<b>27.</b> —(1) Loss of a significant part of a person's property, or a person's failure to provide necessities of life for himself or herself or for dependants, are serious adverse effects for the purposes of this section.	<b>27</b> (1) Pour l'application du présent article, constituent des conséquences préjudiciables graves la perte d'une partie importante des biens d'une personne ou le défaut, pour une personne, de se procurer les objets de première nécessité ou d'en procurer aux personnes à sa charge.	Conséquences préjudiciables graves
Duty to investigate	(2) The Public Guardian and Trustee shall investigate any allegation that a person is incapable of managing property and that serious adverse effects are occurring or may occur as a result.	(2) Le Tuteur et curateur public enquête sur toute allégation selon laquelle une personne est incapable de gérer ses biens et selon laquelle des conséquences préjudiciables graves se produisent ou peuvent se produire en conséquence.	Enquête obligatoire
Application in urgent case	(3) If the Public Guardian and Trustee has reasonable grounds to believe that a person is incapable of managing property and that prompt action is required to prevent serious adverse effects, the Public Guardian and Trustee shall apply to the court for an order appointing him or her as temporary guardian of property.	(3) Si le Tuteur et curateur public a des motifs raisonnables de croire qu'une personne est incapable de gérer ses biens et qu'il faut promptement prendre des mesures pour éviter des conséquences préjudiciables graves, le Tuteur et curateur public demande au tribunal, par voie de requête, de rendre une ordonnance le nommant tuteur temporaire aux biens.	Requête en cas d'urgence
Notice	(4) Notice of the application shall be served on the person alleged to be incapable, unless the court dispenses with notice in view of the nature and urgency of the matter.	(4) L'avis de requête est signifié à la personne prétendue incapable, à moins que le tribunal ne passe outre à la signification de l'avis étant donné la nature et l'urgence de l'affaire.	Avis
Advocate	(5) If notice of the application is served on the person, an advocate shall meet with the person before the hearing and shall explain to him or her the significance of the notice and the right to oppose the application.	(5) Si l'avis de requête est signifié à la personne, un intervenant rencontre cette dernière avant l'audience et lui explique l'importance de l'avis et son droit de s'opposer à la requête.	Intervenant
Order appointing temporary guardian	(6) The court may by order appoint the Public Guardian and Trustee as temporary guardian of property for a period not exceeding ninety days.	(6) Le tribunal peut, par ordonnance, nommer le Tuteur et curateur public tuteur temporaire aux biens pour une période qui ne dépasse pas quatre-vingt-dix jours.	Ordonnance
Idem	(7) The order shall set out the temporary guardian's powers and any conditions imposed on the guardianship.	(7) L'ordonnance précise les pouvoirs du tuteur temporaire et, le cas échéant, les conditions s'appliquant à la tutelle.	Idem
Service of order	(8) If the order was made without notice, it shall be served on the person as soon as possible, and an advocate shall meet with the person and shall explain to him or her the effect of the order and the right to apply to terminate the guardianship.	(8) Si l'ordonnance a été rendue sans préavis, elle est signifiée à la personne dès que possible. Un intervenant rencontre cette dernière et lui explique l'effet de l'ordonnance et son droit de demander qu'il soit mis fin à la tutelle.	Signification de l'ordonnance
Termination, variation of term	(9) On the application of the Public Guardian and Trustee or of the person whose property is under guardianship, the court may terminate the guardianship or reduce or extend its term.	(9) À la requête du Tuteur et curateur public ou de la personne dont les biens sont mis sous tutelle, le tribunal peut soit mettre fin à la tutelle, soit en réduire ou en prolonger la durée.	Fin de la tutelle ou modification de la durée



14	Bill 108	SUBSTITUTE DECISIONS	1991
Application for termination	<b>28.</b> The court may, on any person's application, terminate a guardianship created under section 22.	<b>28</b> Le tribunal peut, à la requête de qui-conque, mettre fin à la tutelle ouverte en vertu de l'article 22.	Requête visant à mettre fin à la tutelle des biens
Suspension of guardian's powers	<b>29.</b> In an application to terminate a guardianship or temporary guardianship the court may, on motion, suspend the powers of the guardian or temporary guardian.	<b>29</b> Dans une requête visant à mettre fin à la tutelle d'un tuteur ou d'un tuteur temporaire, le tribunal peut, sur motion, suspendre les pouvoirs du tuteur ou du tuteur temporaire.	Suspension des pouvoirs du tuteur
Procedure	<b>30.</b> Part III (Procedure) applies to applications to terminate guardianships of property.	<b>30</b> La partie III (Procédure) s'applique aux requêtes visant à mettre fin aux tutelles de biens.	Procédure
	PROPERTY MANAGEMENT	GESTION DES BIENS	
Powers of guardian	<b>31.—(1)</b> A guardian of property has power to do on the incapable person's behalf anything in respect of property that the person could do if capable, except make a will.	<b>31</b> (1) Le tuteur aux biens a le pouvoir de faire, au nom de l'incapable, tout ce que pourrait faire ce dernier relativement à ses biens s'il était capable, à l'exception de son testament.	Pouvoirs du tuteur
Idem	(2) The guardian's powers are subject to this Act, to any conditions imposed by the court and, in the case of a guardian other than the Public Guardian and Trustee, to the management plan established for the property.	(2) Les pouvoirs du tuteur sont subordonnés à la présente loi, aux conditions, le cas échéant, imposées par le tribunal et, dans le cas d'un tuteur autre que le Tuteur et curateur public, au plan de gestion établi à l'égard des biens.	Idem
Duties of guardian	<b>32.—(1)</b> A guardian of property is a fiduciary whose powers and duties shall be exercised and performed diligently, with honesty and integrity and in good faith, for the incapable person's benefit.	<b>32</b> (1) Le tuteur aux biens est un fiduciaire qui exerce ses pouvoirs et s'acquitte de ses obligations avec diligence, avec honnêteté et intégrité et de bonne foi, dans l'intérêt de l'incapable.	Obligations du tuteur
Explanation	(2) The guardian shall explain to the incapable person what the guardian's powers and duties are.	(2) Le tuteur explique à l'incapable en quoi consistent ses pouvoirs et ses obligations.	Explication
Participation	(3) A guardian shall encourage the incapable person to participate, to the best of his or her abilities, in the guardian's decisions about the property.	(3) Le tuteur encourage l'incapable à participer, autant qu'il peut, aux décisions que le tuteur prend concernant ses biens.	Participation
Standard of care	(4) A guardian who does not receive compensation for managing the property shall exercise the degree of care, diligence and skill that a person of ordinary prudence would exercise in the conduct of his or her own affairs.	(4) Le tuteur qui ne reçoit pas de rémunération relativement à la gestion des biens exerce le degré de prudence, de diligence et de compétence qu'exercerait une personne d'une prudence normale dans la direction de ses propres affaires.	Norme de prudence
Idem	(5) A guardian who receives compensation for managing the property shall exercise the degree of care, diligence and skill that a person in the business of managing the property of others is required to exercise.	(5) Le tuteur qui reçoit une rémunération relativement à la gestion des biens exerce le degré de prudence, de diligence et de compétence dont doit faire preuve une personne qui exerce la profession de gestionnaire des biens d'autrui.	Idem
P.G.T.	(6) Subsection (5) applies to the Public Guardian and Trustee.	(6) Le paragraphe (5) s'applique au Tuteur et curateur public.	T.C.P.
Management plan, policies of P.G.T.	(7) A guardian shall act in accordance with the management plan established for the property, if the guardian is not the Public Guardian and Trustee, or with the policies of the Public Guardian and Trustee, if he or she is the guardian.	(7) Le tuteur agit conformément au plan de gestion établi à l'égard des biens, s'il n'est pas le Tuteur et curateur public, ou conformément aux politiques du Tuteur et curateur public, si celui-ci est le tuteur.	Plan de gestion, politiques du T.C.P.

Amendment  
of plan

(8) If there is a management plan, it may be amended from time to time with the Public Guardian and Trustee's approval.

(8) S'il y a un plan de gestion, il peut être modifié à l'occasion, avec l'approbation du Tuteur et curateur public.

Modification  
du planApplication  
of *Trustee*  
*Act*

(9) The *Trustee Act* does not apply to the exercise of a guardian's powers or the performance of a guardian's duties.

(9) La loi intitulée *Trustee Act* («*Loi sur les fiduciaires*») ne s'applique pas au tuteur dans l'exercice de ses pouvoirs ou l'acquittement de ses obligations.

Application  
de la *Loi sur*  
*les fiduciaires*Liability of  
guardian

**33.—**(1) A guardian of property is liable for damages resulting from a breach of the guardian's duty.

**33** (1) Le tuteur aux biens est responsable des dommages résultant d'un manquement à ses obligations.

Responsabi-  
lité du tuteur

Idem

(2) If the court is satisfied that a guardian of property who has committed a breach of duty has nevertheless acted honestly, reasonably and diligently, it may relieve the guardian from all or part of the liability.

(2) Si le tribunal est convaincu qu'un tuteur aux biens qui a manqué à ses obligations a néanmoins agi de façon honnête, raisonnable et diligente, il peut le dégager de l'ensemble ou d'une partie de sa responsabilité.

Idem

Completion  
of transac-  
tions

**34.—**(1) A guardian of property has power to complete a transaction that the incapable person entered into before becoming incapable.

**34** (1) Le tuteur aux biens peut achever une opération que l'incapable a entamée avant de devenir incapable.

Achèvement  
d'opérations

Idem

(2) The guardian has power to complete a transaction that the guardian entered into before the incapable person's death or the termination of the guardianship.

(2) Le tuteur peut achever une opération qu'il a entamée avant le décès de l'incapable ou avant qu'il ne soit mis fin à la tutelle.

Idem

P.G.T.,  
powers of  
executor

**35.** When the Public Guardian and Trustee is the guardian of property for an incapable person who dies, he or she may, until notified of another person's appointment as personal representative, exercise the powers of an executor to whom the incapable person's property is given in trust for the payment of debts and the distribution of the residue.

**35** Lorsque le Tuteur et curateur public est le tuteur aux biens d'un incapable qui décède, il peut, jusqu'à ce qu'il soit avisé de la nomination d'une autre personne à titre de représentant successoral, exercer les pouvoirs d'un exécuteur à qui les biens de l'incapable sont remis en fiducie aux fins de paiement des dettes et de distribution du reliquat.

T.C.P., pou-  
voirs de  
l'exécuteurProceeds of  
sale

**36.** The doctrine of ademption does not apply to property that a guardian of property disposes of under this Act, and anyone who would have acquired an interest in the property acquires a corresponding interest in the proceeds.

**36** La doctrine de l'extinction ne s'applique pas aux biens qu'un tuteur aux biens aliène aux termes de la présente loi, et quiconque aurait acquis un intérêt sur les biens acquiert un intérêt correspondant sur le produit.

Produit de la  
vente

Recitals

**37.** A recital, in a document executed by a guardian of property, that the guardian is the incapable person's guardian of property under this Act is proof of the facts recited, in the absence of evidence to the contrary.

**37** Un énoncé, dans un document passé par un tuteur aux biens, selon lequel le tuteur est le tuteur aux biens de l'incapable aux termes de la présente loi constitue, en l'absence de preuve contraire, la preuve des faits énoncés.

Énoncés

Attorney  
under  
continuing  
power

**38.** Section 32, except subsections (7) and (8), and sections 33 to 37 also apply, with necessary modifications, to an attorney acting under a continuing power of attorney whose grantor is incapable of managing property.

**38** L'article 32, sauf les paragraphes (7) et (8), et les articles 33 à 37 s'appliquent aussi, avec les adaptations nécessaires, à un procureur agissant en vertu d'une procuration perpétuelle donnée par un mandant qui est incapable de gérer ses biens.

Procureur

Required  
expenditures

**39.—**(1) A guardian of property shall make the following expenditures from the incapable person's property:

**39** (1) Le tuteur aux biens prélève des sommes sur les biens de l'incapable pour couvrir les dépenses suivantes :

Dépenses  
obligatoires

1. The expenditures that are reasonably necessary for the person's support, education and care.

1. Les dépenses raisonnablement nécessaires pour les aliments, l'éducation et les soins de l'incapable.



2. The expenditures that are reasonably necessary for the support, education and care of the person's dependants.

3. The expenditures that are necessary to satisfy the person's other legal obligations.

Guiding  
principles

(2) The following rules apply to expenditures under subsection (1):

1. The value of the property, the accustomed standard of living of the incapable person and his or her dependants and the nature of other legal obligations shall be taken into account.

2. Expenditures under paragraph 2 may be made only if the property is and will remain more than sufficient to provide for expenditures under paragraph 1.

3. Expenditures under paragraph 3 may be made only if the property is and will remain more than sufficient to provide for expenditures under paragraphs 1 and 2.

Optional  
expenditures

(3) The guardian may make the following expenditures from the incapable person's property:

1. Gifts or loans to the person's friends and relatives.

2. Charitable gifts.

Guiding  
principles

(4) The following rules apply to expenditures under subsection (3):

1. They may be made only if the property is and will remain more than sufficient to satisfy the requirements of subsection (1).

2. Gifts or loans to the incapable person's friends and relatives may be made only if there is reason to believe, based on the intentions the person expressed before becoming incapable, that he or she would make them if capable. In addition, such gifts and loans shall not be made if the person expresses a wish to the contrary.

3. Charitable gifts may be made only if there is evidence that the person made similar expenditures when capable.

4. The total amount or value of charitable gifts shall not exceed 20 per cent of the income of the property in the year in which the gifts are made.

Increase,  
charitable  
gifts

(5) The court may, on the guardian's application, authorize him or her to make a charitable gift that exceeds the maximum

2. Les dépenses raisonnablement nécessaires pour les aliments, l'éducation et les soins des personnes à la charge de l'incapable.

3. Les dépenses nécessaires pour satisfaire aux autres obligations légales de l'incapable.

(2) Les règles suivantes s'appliquent aux dépenses visées au paragraphe (1) :

Principes  
directeurs

1. Il est tenu compte de la valeur des biens, du niveau de vie habituel de l'incapable et des personnes à sa charge, et de la nature d'autres obligations légales.

2. Les dépenses visées à la disposition 2 ne peuvent être engagées que si les biens sont et demeureront plus que suffisants pour couvrir les dépenses visées à la disposition 1.

3. Les dépenses visées à la disposition 3 ne peuvent être engagées que si les biens sont et demeureront plus que suffisants pour couvrir les dépenses visées aux dispositions 1 et 2.

(3) Le tuteur peut prélever des sommes sur les biens de l'incapable pour couvrir les dépenses suivantes :

Dépenses  
facultatives

1. Les dons ou les prêts aux amis et parents de l'incapable.

2. Les dons de charité.

(4) Les règles suivantes s'appliquent aux dépenses visées au paragraphe (3) :

Principes  
directeurs

1. Elles ne peuvent être engagées que si les biens sont et demeureront plus que suffisants pour satisfaire aux exigences du paragraphe (1).

2. Les dons ou les prêts aux amis et parents de l'incapable ne peuvent être faits que s'il existe des raisons de croire, d'après les intentions que l'incapable a exprimées avant de devenir incapable, qu'il les ferait s'il était capable. De plus, de tels dons ou prêts ne sont pas faits si l'incapable exprime un désir à l'effet contraire.

3. Les dons de charité ne sont faits que s'il existe des preuves que l'incapable a engagé des dépenses semblables lorsqu'il était capable.

4. Le montant total ou la valeur totale des dons de charité ne dépasse pas 20 pour cent du revenu produit par les biens pendant l'année où les dons sont faits.

(5) Le tribunal peut, à la requête du tuteur, autoriser celui-ci à faire un don de charité d'un montant supérieur ou d'une

Augmenta-  
tion, dons de  
charité

amount or value referred to in paragraph 4 of subsection (4).

Expenditures for person's benefit

(6) Expenditures made under this section shall be deemed to be for the incapable person's benefit.

Application for directions

**40.**—(1) A guardian of property or an attorney under a continuing power of attorney may apply to the court for directions on any question arising in the management of the property.

Idem

(2) The incapable person or his or her dependant, the incapable person's guardian of the person, his or her attorney for personal care, the Public Guardian and Trustee, or any other person with leave of the court, may also apply to the court for directions to the guardian of property or attorney on any question arising in the management of the property.

Order

(3) The court may by order give such directions as it considers to be for the benefit of the person and his or her dependants and consistent with this Act.

Variation of order

(4) The court may, on further application by a person referred to in subsection (1) or (2), vary the order.

Compensation

**41.**—(1) A guardian of property may take annual compensation from the property in accordance with the prescribed fee scale.

Idem

(2) The compensation may be taken monthly, quarterly or annually.

Idem

(3) If all the persons referred to in subsection 42 (2) other than the incapable person consent, the guardian may take compensation on an interim basis or may take an amount of compensation greater than the prescribed fee scale allows.

Annual financial statement

**42.**—(1) A guardian of property shall prepare a financial statement as of the 31st day of December in each year, showing,

- (a) the assets at the beginning of the year;
- (b) the assets at the end of the year;
- (c) capital receipts and disbursements;
- (d) revenue receipts and disbursements;
- (e) the services performed by the guardian; and
- (f) the compensation taken, if any.

Statement to be given to persons on request

(2) The guardian shall, on request, give a copy of the financial statement to any of the following persons:

valeur supérieure au maximum prévu à la disposition 4 du paragraphe (4).

(6) Les dépenses engagées en vertu du présent article sont réputées l'être dans l'intérêt de l'incapable.

Dépenses dans l'intérêt de l'incapable

**40** (1) Le tuteur aux biens ou le procureur constitué en vertu d'une procuration perpétuelle peut, par voie de requête, demander au tribunal de lui donner des directives sur toute question se posant dans le cadre de la gestion des biens.

Requête visant à obtenir des directives

(2) L'incapable ou une personne à sa charge, le tuteur à la personne de l'incapable, le procureur au soin de la personne de l'incapable, le Tuteur et curateur public ou toute autre personne avec l'autorisation du tribunal peut aussi, par voie de requête, demander au tribunal de donner au tuteur aux biens ou au procureur des directives sur toute question se posant dans le cadre de la gestion des biens.

Idem

(3) Le tribunal peut, par ordonnance, donner les directives qu'il juge être dans l'intérêt de l'incapable et des personnes à sa charge et qu'il juge compatibles avec la présente loi.

Ordonnance

(4) Le tribunal peut, à la requête supplémentaire d'une personne visée au paragraphe (1) ou (2), modifier l'ordonnance.

Modification de l'ordonnance

**41** (1) Le tuteur aux biens peut prélever sa rémunération annuelle sur les biens conformément au barème d'honoraires prescrit.

Rémunération

(2) La rémunération peut être prélevée une fois par mois, une fois par trimestre ou une fois par an.

Idem

(3) Si toutes les personnes visées au paragraphe 42 (2), à l'exception de l'incapable, y consentent, le tuteur peut prélever une rémunération provisoire ou une rémunération supérieure à celle autorisée par le barème d'honoraires prescrit.

Idem

**42** (1) Chaque année, le tuteur aux biens dresse un état financier au 31 décembre indiquant tous les postes suivants :

État financier annuel

- a) l'actif en début d'année;
- b) l'actif en fin d'année;
- c) les recettes et les débours liés au capital;
- d) les recettes et les débours liés au revenu;
- e) les services fournis par le tuteur;
- f) la rémunération prélevée, le cas échéant.

(2) Le tuteur remet, sur demande, une copie de l'état financier aux personnes suivantes :

Remise de l'état sur demande



	1. The incapable person.	1. L'incapable.	
	2. The incapable person's guardian of the person or attorney for personal care.	2. Le tuteur à la personne de l'incapable ou le procureur au soin de sa personne.	
	3. If the guardian is the Public Guardian and Trustee, a person who could apply under section 17 to replace him or her as guardian of property.	3. Si le tuteur est le Tuteur et curateur public, une personne qui pourrait, en vertu de l'article 17, présenter une requête visant à le remplacer à titre de tuteur aux biens.	
	4. The Public Guardian and Trustee, if he or she is not the guardian.	4. Le Tuteur et curateur public, s'il n'est pas le tuteur.	
Particulars	(3) A person who has been given a copy of the financial statement is entitled, on request, to further particulars in respect of it.	(3) La personne qui a reçu une copie de l'état financier a droit, sur demande, à des précisions sur l'état.	Précisions
Passing of accounts	<b>43.</b> —(1) The court may, on application, order that all or a specified part of the accounts of an attorney or guardian of property be passed.	<b>43</b> (1) Le tribunal peut, sur requête, ordonner la reddition de la totalité ou d'une partie précise des comptes d'un procureur ou d'un tuteur aux biens.	Reddition des comptes
Attorney's accounts	(2) An attorney, the grantor or any of the persons listed in subsection (4) may apply to pass the attorney's accounts.	(2) Un procureur, le mandant ou une personne visée au paragraphe (4) peuvent, par voie de requête, demander la reddition des comptes du procureur.	Comptes du procureur
Guardian's accounts	(3) A guardian of property, the incapable person or any of the persons listed in subsection (4) may apply to pass the accounts of the guardian of property.	(3) Un tuteur aux biens, l'incapable ou une personne visée au paragraphe (4) peuvent, par voie de requête, demander la reddition des comptes du tuteur aux biens.	Comptes du tuteur
Others entitled to apply	(4) The following persons may also apply:	(4) Les personnes suivantes peuvent également présenter une requête :	Autres personnes pouvant présenter une requête
	1. The grantor's or incapable person's guardian of the person or attorney for personal care.	1. Le tuteur à la personne du mandant ou de l'incapable, ou le procureur au soin de sa personne.	
	2. A dependant of the grantor or incapable person.	2. Une personne à la charge du mandant ou de l'incapable.	
	3. The Public Guardian and Trustee.	3. Le Tuteur et curateur public.	
	4. The Official Guardian.	4. Le Tuteur public.	
	5. A judgment creditor of the grantor or incapable person.	5. Un créancier du mandant ou de l'incapable en vertu d'un jugement.	
	6. Any other person, with leave of the court.	6. Toute autre personne, avec l'autorisation du tribunal.	
P.G.T. a party	(5) If the Public Guardian and Trustee is the applicant or the respondent, the court shall grant the application, unless it is satisfied that the application is frivolous or vexatious.	(5) Si le Tuteur et curateur public est le requérant ou l'intimé, le tribunal accueille la requête à moins qu'il ne soit convaincu qu'elle est frivole ou vexatoire.	T.C.P. en tant que partie
Filing of accounts	(6) The accounts shall be filed in the court office and the procedure in the passing of the accounts is the same and has the same effect as in the passing of executors' and administrators' accounts.	(6) Les comptes sont déposés au greffe et la procédure de reddition des comptes est la même et a le même effet que celle qui s'applique à la reddition des comptes des exécuteurs testamentaires et des administrateurs successoraux.	Dépôt des comptes
Powers of court	(7) In an application for the passing of an attorney's accounts the court may, on motion or on its own initiative,	(7) Dans le cadre d'une requête en reddition des comptes d'un procureur, le tribunal peut, sur motion ou de sa propre initiative :	Pouvoirs du tribunal
	(a) direct the Public Guardian and Trustee to bring an application for guardianship of property;	a) ordonner au Tuteur et curateur public de présenter une requête en tutelle des biens;	

- (b) suspend the power of attorney pending the determination of the application;
- (c) appoint the Public Guardian and Trustee or another person to act as guardian of property pending the determination of the application;
- (d) order an examination of the grantor of the power of attorney under section 76 to determine his or her capacity; or
- (e) order that the power of attorney be terminated.

Idem

(8) In an application for the passing of the accounts of a guardian of property the court may, on motion or on its own initiative,

- (a) adjust the guardian's compensation in accordance with the value of the services performed;
- (b) suspend the guardianship pending the determination of the application;
- (c) appoint the Public Guardian and Trustee or another person to act as guardian of property pending the determination of the application; or
- (d) order that the guardianship be terminated.

## PART II

### THE PERSON

Application of Part

**44.** This Part applies to decisions on behalf of persons who are at least sixteen years old.

Age

**45.** To exercise a power of decision under this Part on behalf of another person, a person must be at least sixteen years old.

Incapacity for personal care

**46.** A person is incapable of personal care if the person is not able to understand information that is relevant to making a decision concerning his or her own health care, nutrition, shelter, clothing, hygiene or safety, or is not able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

### POWERS OF ATTORNEY FOR PERSONAL CARE

Power of attorney for personal care

**47.—(1)** A person may give a written power of attorney for personal care, authorizing the person or persons named as attorneys to make, on the grantor's behalf, decisions concerning the grantor's personal care.

P.G.T. may be attorney

(2) The power of attorney may name the Public Guardian and Trustee as attorney, with his or her consent.

- b) suspendre la procuration en attendant le règlement de la requête;
- c) nommer le Tuteur et curateur public ou une autre personne à titre de tuteur aux biens en attendant le règlement de la requête;
- d) ordonner un examen du mandant de la procuration en vertu de l'article 76 pour évaluer sa capacité;
- e) ordonner que la procuration prenne fin.

Idem

(8) Dans le cadre d'une requête en reddition des comptes d'un tuteur aux biens, le tribunal peut, sur motion ou de sa propre initiative :

- a) rajuster la rémunération du tuteur en fonction de la valeur des services fournis;
- b) suspendre la tutelle en attendant le règlement de la requête;
- c) nommer le Tuteur et curateur public ou une autre personne à titre de tuteur aux biens en attendant le règlement de la requête;
- d) ordonner que la tutelle prenne fin.

## PARTIE II

### LA PERSONNE

Application de la partie

**44** La présente partie s'applique aux décisions prises au nom de personnes âgées d'au moins seize ans.

Âge

**45** Pour exercer un pouvoir décisionnel au nom d'autrui en vertu de la présente partie, une personne doit avoir au moins seize ans.

Incapacité de prendre soin de sa personne

**46** Une personne est incapable de prendre soin d'elle-même si elle ne peut pas comprendre les renseignements qui sont pertinents à la prise d'une décision concernant ses propres soins médicaux, son alimentation, son hébergement, son habillement, son hygiène ou sa sécurité, ou si elle ne peut pas évaluer les conséquences raisonnablement prévisibles d'une décision ou d'une absence de décision.

### PROCURATIONS RELATIVES AU SOIN DE LA PERSONNE

Procuration relative au soin de la personne

**47 (1)** Une personne peut donner, par écrit, une procuration relative au soin de la personne autorisant la ou les personnes nommées à titre de procureurs à prendre, au nom du mandant, des décisions relativement au soin de sa personne.

Le T.C.P. peut être le procureur

(2) La procuration peut nommer le Tuteur et curateur public à titre de procureur, avec son consentement.



Conditions and restrictions	(3) The power of attorney is subject to this Part, and to the conditions and restrictions that are contained in the power of attorney and are consistent with this Act.	(3) La procuration est subordonnée à la présente partie, et aux conditions et restrictions qui sont énoncées dans la procuration et qui sont compatibles avec la présente loi.	Conditions et restrictions
Instructions	(4) The power of attorney may contain instructions with respect to the decisions the attorney is authorized to make.	(4) La procuration peut contenir des instructions à l'égard des décisions que le procureur est autorisé à prendre.	Instructions
Idem, treatment	(5) The power of attorney, if it authorizes the attorney to give or refuse consent, on the grantor's behalf, to treatment to which the <i>Consent to Treatment Act, 1991</i> applies, may instruct the attorney to give or refuse consent to specified kinds of treatment under specified circumstances.	(5) La procuration, si elle autorise le procureur à donner ou à refuser, au nom du mandant, son consentement à un traitement auquel s'applique la <i>Loi de 1991 sur le consentement au traitement</i> , peut donner des instructions selon lesquelles le procureur doit donner ou refuser son consentement à des genres de traitement précisés dans des circonstances précisées.	Idem, traitement
Matters excluded unless expressly stated	(6) Unless it expressly so provides, the power of attorney does not confer authority for the attorney to consent to a procedure whose primary purpose is research.	(6) Sauf dispositions contraires expresses, la procuration ne confère pas au procureur le pouvoir de consentir à un acte dont le but principal est la recherche.	Questions exclues sauf dispositions contraires expresses
Matters excluded absolutely	(7) The power of attorney does not confer authority to give consent to, <ul style="list-style-type: none"> <li>(a) sterilization that is not medically necessary for the protection of the person's physical health; or</li> <li>(b) psychosurgery as defined in section 35 of the <i>Mental Health Act</i>.</li> </ul>	(7) La procuration ne confère pas le pouvoir de consentir, selon le cas : <ul style="list-style-type: none"> <li>a) à une stérilisation qui n'est pas nécessaire, sur le plan médical, pour protéger la santé physique de la personne;</li> <li>b) à une intervention psychochirurgicale au sens de l'article 35 de la <i>Loi sur la santé mentale</i>.</li> </ul>	Questions exclues de façon absolue
Form	(8) The power of attorney may be in the prescribed form.	(8) La procuration peut être rédigée selon la formule prescrite.	Formule
Power not effective until validated	(9) The power of attorney is not effective until it is validated in accordance with section 49.	(9) La procuration n'est pas en vigueur tant qu'elle n'est pas validée conformément à l'article 49.	Entrée en vigueur par validation
Preferred assessors	(10) In the power of attorney the grantor may name the assessors or describe the classes of assessors who may perform an assessment of his or her capacity for personal care if it is in issue.	(10) Dans la procuration, le mandant peut nommer les évaluateurs ou décrire les catégories d'évaluateurs qui peuvent évaluer sa capacité de prendre soin de sa personne si cette capacité est en cause.	Évaluateurs préférés
Execution	<b>48.—</b> (1) A power of attorney for personal care shall be executed in the presence of two witnesses in the manner described in subsection (3).	<b>48</b> (1) La procuration relative au soin de la personne est passée devant deux témoins de la manière décrite au paragraphe (3).	Passation
Persons who shall not be witnesses	(2) The persons referred to in subsection 10 (2) shall not be witnesses.	(2) Les personnes visées au paragraphe 10 (2) ne doivent pas être témoins.	Personnes qui ne doivent pas être témoins
Formalities of execution by witnesses	(3) Each witness shall sign the document as witness and shall at the same time make a written statement in the prescribed form indicating that he or she has no reason to believe that the grantor is incapable of giving a power of attorney for personal care.	(3) Chaque témoin signe le document en cette qualité et fait, en même temps, une déclaration écrite selon la formule prescrite portant qu'il n'a aucune raison de croire que le mandant est incapable de donner une procuration relative au soin de la personne.	Formalités de passation par les témoins
Declaration of effectiveness	(4) If a person referred to in subsection 10 (2) witnesses the execution of the power of attorney, the power is ineffective, but the court may declare it effective, on any person's application, if satisfied that it is in the grantor's interests to do so.	(4) Si une personne visée au paragraphe 10 (2) est témoin à la passation de la procuration, celle-ci est inapplicable, mais le tribunal peut la déclarer applicable, à la requête de quiconque, s'il est convaincu que c'est dans l'intérêt du mandant.	Déclaration d'applicabilité

Application  
for valida-  
tion

**49.—(1)** The attorney under a power of attorney for personal care may apply to the Public Guardian and Trustee to validate the power of attorney.

Documents  
to be filed

(2) At the time of making the application, the attorney shall file with the Public Guardian and Trustee copies of the power of attorney and of the statements referred to in section 50, and a guardianship plan in the prescribed form.

Validation if  
P.G.T. is  
attorney

(3) If the Public Guardian and Trustee is the attorney and wishes to validate the power of attorney, he or she shall file in his or her office copies of the power of attorney and of the statements described in section 50.

Advocate

(4) At the request of the Public Guardian and Trustee, an advocate shall promptly meet with the grantor and shall,

- (a) notify the grantor of the proposed validation and of the statements referred to in section 50;
- (b) explain to the grantor what powers the attorney will have if the power of attorney is validated; and
- (c) explain to the grantor his or her right to oppose the validation of the power of attorney.

Notice to  
P.G.T.

(5) The advocate shall promptly notify the Public Guardian and Trustee in writing that the meeting took place and whether the grantor opposes the validation of the power of attorney.

Certificate

(6) As soon as he or she receives the advocate's notification that the grantor does not oppose the validation of the power of attorney, the Public Guardian and Trustee may validate it by issuing a certificate.

Idem

(7) The certificate shall state in respect of which functions referred to in section 46 (personal care) the grantor is incapable, in the opinion of both of the makers of the statements described in section 50, and the validation applies only to the powers of the attorney that correspond to those functions.

Refusal to  
validate  
power of  
attorney

(8) If the Public Guardian and Trustee refuses to validate the power of attorney and the attorney disputes the refusal, the Public Guardian and Trustee shall apply to the court to decide the matter.

Court order

(9) The court may make an order validating the power of attorney.

Assessment  
of capacity

**50.—(1)** If the validation of a power of attorney for personal care is proposed, the following persons may each perform an assessment of the grantor's capacity:

1. Two of the persons named or described in the power of attorney as preferred assessors.

**49** (1) Le procureur constitué en vertu d'une procuration relative au soin de la personne peut demander au Tuteur et curateur public de valider la procuration.

Demande de  
validation

(2) Au moment où il présente la demande, le procureur dépose auprès du Tuteur et curateur public des copies de la procuration et des déclarations visées à l'article 50 ainsi qu'un plan de tutelle dressé selon la formule prescrite.

Documents à  
déposer

(3) Si le Tuteur et curateur public est le procureur et qu'il désire valider la procuration, il dépose à son bureau des copies de la procuration et des déclarations visées à l'article 50.

Validation si  
le T.C.P. est  
le procureur

(4) À la demande du Tuteur et curateur public, un intervenant rencontre promptement le mandant et fait ce qui suit :

Intervenant

- a) il lui donne avis de la validation projetée et des déclarations visées à l'article 50;
- b) il lui explique les pouvoirs qu'aura le procureur si la procuration est validée;
- c) il lui explique son droit de s'opposer à la validation de la procuration.

(5) L'intervenant informe promptement le Tuteur et curateur public, par écrit, que la rencontre a eu lieu et précise si le mandant s'oppose à la validation de la procuration.

Avis au  
T.C.P.

(6) Dès qu'il reçoit l'information de l'intervenant selon laquelle le mandant ne s'oppose pas à la validation de la procuration, le Tuteur et curateur public peut valider la procuration en délivrant un certificat.

Certificat

(7) Le certificat indique les fonctions visées à l'article 46 (soin de la personne) à l'égard desquelles le mandant est incapable, de l'avis des deux auteurs des déclarations décrites à l'article 50. La validation ne s'applique qu'aux pouvoirs du procureur qui correspondent à ces fonctions.

Idem

(8) Si le Tuteur et curateur public refuse de valider la procuration et que le procureur conteste ce refus, le Tuteur et curateur public demande au tribunal, par voie de requête, de trancher la question.

Refus de vali-  
der la procu-  
ration

(9) Le tribunal peut, au moyen d'une ordonnance, valider la procuration.

Ordonnance  
du tribunal

**50** (1) S'il est projeté de valider une procuration relative au soin de la personne, les personnes suivantes peuvent chacune évaluer la capacité du mandant :

Évaluation de  
la capacité

1. Deux des personnes nommées ou décrites dans la procuration à titre d'évaluateurs préférés.



2. If the power of attorney does not name or describe preferred assessors, or if there are not two of them who are able and willing to perform an assessment, a physician and an assessor.

Statement

(2) A physician or assessor who concludes that the grantor is incapable in respect of the functions described in section 46 (personal care), or in respect of some of them, shall make a statement, in the prescribed form, and shall give it to the attorney.

Contents of statement

(3) The statement shall indicate that its maker is of the opinion that the grantor is incapable in respect of the functions described in section 46, or in respect of some of them, shall specify the nature and extent of the incapacity and shall set out the facts on which the opinion is based.

Termination

**51.—(1)** A power of attorney for personal care is terminated,

- (a) when the attorney dies, becomes incapable or resigns, if the power does not provide for the substitution of another person or if no such person is able and willing to act;
- (b) when the court appoints a guardian for the grantor under section 52;
- (c) when the power is revoked.

Execution of revocation

(2) A revocation shall be in writing and shall be executed in the same way as a power of attorney for personal care.

#### COURT-APPOINTED GUARDIANS OF THE PERSON

Application for appointment

**52.** The court may, on any person's application, appoint a guardian of the person for a person who is incapable of personal care and, as a result, needs decisions to be made on his or her behalf by a person who is authorized to do so.

Procedure

**53.** Part III (Procedure) applies to applications to appoint guardians of the person.

Who may not be appointed guardian

**54.—(1)** A person who provides health care or residential, social, training or support services to an incapable person for compensation shall not be appointed his or her guardian of the person.

Exception

(2) Subsection (1) does not apply to the incapable person's spouse, partner or relative or to the following persons:

- 1. The incapable person's guardian of property.
- 2. The attorney for personal care.

2. Si la procuration ne nomme pas ni ne décrit d'évaluateurs préférés ou qu'il n'y a pas deux évaluateurs qui puissent et veuillent faire l'évaluation, un médecin et un évaluateur.

Déclaration

(2) Le médecin ou l'évaluateur qui conclut que le mandant est incapable à l'égard des fonctions visées à l'article 46 (soin de la personne), ou à l'égard de certaines d'entre elles, fait une déclaration à cet effet, selon la formule prescrite, et la remet au procureur.

Contenu de la déclaration

(3) La déclaration indique que son auteur est d'avis que le mandant est incapable à l'égard des fonctions visées à l'article 46, ou à l'égard de certaines d'entre elles, et précise la nature et la gravité de l'incapacité ainsi que les faits sur lesquels son opinion est fondée.

Fin de la procuration

**51** (1) La procuration relative au soin de la personne prend fin :

- a) lorsque le procureur décède, devient incapable ou démissionne, si la procuration ne prévoit pas son remplacement par une autre personne ou qu'aucune autre personne ne peut ni ne veut agir à ce titre;
- b) lorsque le tribunal nomme un tuteur à l'égard du mandant en vertu de l'article 52;
- c) lorsque la procuration est révoquée.

Passation de la révocation

(2) La révocation se fait par écrit. Elle est passée de la même manière qu'une procuration relative au soin de la personne.

#### TUTEURS À LA PERSONNE NOMMÉS PAR LE TRIBUNAL

**52** Le tribunal peut, à la requête de quiconque, nommer un tuteur à la personne à l'égard d'une personne qui est incapable de prendre soin d'elle-même et, par conséquent, a besoin qu'une personne autorisée à le faire prenne des décisions en son nom.

Requête en nomination

**53** La partie III (Procédure) s'applique aux requêtes en nomination d'un tuteur à la personne.

Procédure

**54** (1) La personne qui fournit des soins médicaux, des services sociaux, des services en établissement, des services de formation ou des services de soutien à un incapable contre rémunération ne doit pas être nommée tuteur à la personne de l'incapable.

Personnes qui ne peuvent pas être nommées tuteurs

(2) Le paragraphe (1) ne s'applique pas au conjoint, au partenaire ou au parent de l'incapable ni aux personnes suivantes :

Exception

- 1. Le tuteur aux biens de l'incapable.
- 2. Le procureur au soin de la personne.

3. The attorney under a continuing power of attorney for property.

3. Le procureur constitué en vertu d'une procuration perpétuelle relative aux biens.

## Criteria

(3) Except in the case of an application that is being dealt with under section 75 (summary disposition), the court shall consider,

(3) Sauf dans le cas d'une requête traitée en vertu de l'article 75 (règlement sommaire), le tribunal tient compte des critères suivants :

## Critères

- (a) whether the proposed guardian is the attorney under a continuing power of attorney for property;
- (b) the incapable person's current wishes, if they can be ascertained; and
- (c) the closeness of the applicant's personal relationship to the incapable person.

- a) le fait que le tuteur proposé est le procureur constitué en vertu d'une procuration perpétuelle relative aux biens;
- b) les désirs courants de l'incapable, s'ils peuvent être établis;
- c) l'étroitesse des rapports personnels entre le requérant et l'incapable.

## Two or more guardians

(4) The court may, with their consent, appoint two or more persons as joint guardians of the person or may appoint each of them as guardian in respect of a specified period.

(4) Le tribunal peut, avec leur consentement, nommer deux personnes ou plus à titre de tuteurs conjoints à la personne, ou il peut nommer chacune d'entre elles tuteur à la personne relativement à une période précise.

## Deux tuteurs ou plus

## Finding of incapacity

**55.**—(1) An order appointing a guardian of the person shall include a finding that the person is incapable in respect of the functions referred to in section 46, or in respect of some of them, and, as a result, needs decisions to be made on his or her behalf by a person who is authorized to do so.

**55** (1) L'ordonnance de nomination d'un tuteur à la personne à l'égard d'une personne comprend une constatation selon laquelle cette personne est incapable à l'égard des fonctions visées à l'article 46, ou à l'égard de certaines d'entre elles, et, par conséquent, a besoin qu'une personne autorisée à le faire prenne des décisions en son nom.

## Constatation d'incapacité

## Contents of order

(2) An order appointing a guardian may,

(2) L'ordonnance de nomination d'un tuteur peut :

## Contenu de l'ordonnance

- (a) make the appointment for a limited period as the court considers appropriate;
- (b) impose such other conditions on the appointment as the court considers appropriate.

- a) préciser que la nomination est valide pour une période limitée, selon ce que le tribunal juge approprié;
- b) subordonner la nomination aux autres conditions que le tribunal juge appropriées.

## Full or partial guardianship

(3) The order shall specify whether the guardianship is full or partial.

(3) L'ordonnance précise s'il s'agit d'une tutelle absolue ou partielle.

## Tutelle absolue ou partielle

## Full guardianship

**56.**—(1) The court may make an order for full guardianship of the person only if the court finds that the person is incapable in respect of all the functions referred to in section 46.

**56** (1) Le tribunal ne peut rendre une ordonnance de tutelle absolue de la personne que s'il constate que la personne est incapable à l'égard de toutes les fonctions visées à l'article 46.

## Tutelle absolue

## Powers of guardian

(2) Under an order for full guardianship, the guardian may,

(2) En vertu d'une ordonnance de tutelle absolue, le tuteur peut :

## Pouvoirs du tuteur

- (a) exercise custodial power over the person under guardianship and determine his or her living arrangements;
- (b) be the person's litigation guardian, except in respect of litigation that relates to the person's property or to the guardian's status or powers;
- (c) settle claims and commence and settle proceedings on the person's behalf, except claims and proceedings that

- a) exercer un pouvoir de garde en ce qui concerne l'incapable en tutelle et décider des conditions relatives à son hébergement;
- b) agir à titre de tuteur à l'instance de l'incapable, sauf à l'égard d'une instance qui a trait soit aux biens de l'incapable, soit au statut ou aux pouvoirs du tuteur;
- c) conclure des transactions à l'égard de demandes, et introduire des instances et conclure des transactions à leur



relate to the person's property or to the guardian's status or powers;

- (d) have access to personal information (except information that the person communicated to an advocate) to which the person could have access if capable, and consent to the release of that information to another person, except for the purposes of litigation that relates to the person's property or to the guardian's status or powers;
- (e) give or refuse consent on the person's behalf to treatment to which the *Consent to Treatment Act, 1991* applies;
- (f) make decisions about the person's employment, education, training and recreation and about any social services provided to the person; and
- (g) exercise the other powers and perform the other duties that are specified in the order.

Power to apprehend person

(3) If the guardian has custodial power over the person and the court is satisfied that it may be necessary to apprehend him or her, the court may in its order authorize the guardian to do so; in that case the guardian may, with the assistance of a police officer, enter the premises specified in the order, between 9 a.m. and 4 p.m. or during the hours specified in the order, and search for and remove the person, using such force as may be necessary.

Matters excluded unless expressly stated

(4) Unless the order expressly provides otherwise, the guardian does not have power,

- (a) to consent to the person's admission to a psychiatric facility as defined in the *Mental Health Act* when the person objects to being admitted there;
- (b) to change existing arrangements in respect of custody of or access to a child, or to give consent on the person's behalf to the adoption of a child;
- (c) to give consent on the person's behalf to the use of restraint, confinement or electric shock for the purpose of aversive conditioning.

Matters excluded absolutely

(5) Nothing in this Act or an order made under this Act authorizes the guardian to give consent on the incapable person's behalf to,

égard, au nom de l'incapable, à l'exception des demandes et des instances qui ont trait soit aux biens de l'incapable, soit au statut ou aux pouvoirs du tuteur;

- d) avoir accès aux renseignements personnels autres que ceux que l'incapable a donnés à un intervenant auxquels l'incapable pourrait avoir accès s'il était capable, et consentir à leur divulgation à un tiers, sauf pour les besoins d'une instance qui a trait soit aux biens de l'incapable, soit au statut ou aux pouvoirs du tuteur;
- e) donner ou refuser, au nom de l'incapable, son consentement à un traitement auquel s'applique la *Loi de 1991 sur le consentement au traitement*;
- f) prendre des décisions au sujet de l'emploi, de l'éducation, de la formation et des loisirs de l'incapable et au sujet des services sociaux fournis à celui-ci;
- g) exercer les autres pouvoirs et s'acquitter des autres obligations précisés dans l'ordonnance.

Pouvoir d'apprehender l'incapable

(3) Si le tuteur possède un pouvoir de garde en ce qui concerne l'incapable et que le tribunal est convaincu qu'il peut être nécessaire d'appréhender l'incapable, le tribunal peut, dans son ordonnance, autoriser le tuteur à le faire. Dans ce cas, le tuteur peut, avec l'aide d'un agent de police, pénétrer dans les lieux précisés dans l'ordonnance entre 9 h et 16 h ou pendant les heures précisées dans l'ordonnance pour y chercher et en retirer l'incapable, en ayant recours à la force éventuellement nécessaire.

(4) Sauf dispositions contraires expresses de l'ordonnance, le tuteur ne possède pas les pouvoirs suivants :

Questions exclues sauf dispositions contraires expresses

- a) donner son consentement à l'admission de l'incapable dans un établissement psychiatrique au sens de la *Loi sur la santé mentale* lorsque l'incapable s'y oppose;
- b) modifier les dispositions existantes concernant la garde d'un enfant ou un droit de visite, ou donner, au nom de l'incapable, son consentement à l'adoption d'un enfant;
- c) donner, au nom de l'incapable, son consentement à ce qu'on utilise la maîtrise, le confinement ou des chocs électriques à des fins de thérapie par aversion.

(5) La présente loi ou une ordonnance rendue en vertu de la présente loi n'a pas pour effet d'autoriser un tuteur à donner, au nom d'un incapable, son consentement, selon le cas :

Questions exclues de façon absolue

	<p>(a) sterilization that is not medically necessary for the protection of the person's physical health;</p> <p>(b) psychosurgery as defined in section 35 of the <i>Mental Health Act</i>; or</p> <p>(c) a procedure whose primary purpose is research.</p>	<p>a) à une stérilisation qui n'est pas nécessaire, sur le plan médical, pour protéger la santé physique de la personne;</p> <p>b) à une intervention psychochirurgicale au sens de l'article 35 de la <i>Loi sur la santé mentale</i>;</p> <p>c) à tout acte dont le but principal est la recherche.</p>	
Exception	(6) Despite clause (5) (c), if the incapable person has a power of attorney for personal care that authorizes the attorney to consent to a procedure whose primary purpose is research, the guardian has the same authority.	(6) Malgré l'alinéa (5) c), si l'incapable a donné une procuration relative au soin de sa personne qui autorise le procureur à consentir à un acte dont le but principal est la recherche, le tuteur possède le même pouvoir.	Exception
Partial guardianship	<b>57.</b> —(1) The court may make an order for partial guardianship of the person for an incapable person if it finds that he or she is incapable in respect of some but not all of the functions referred to in section 46.	<b>57</b> (1) Le tribunal peut rendre une ordonnance de tutelle partielle de la personne à l'égard d'un incapable s'il constate qu'il est incapable à l'égard de certaines des fonctions visées à l'article 46, mais non de toutes.	Tutelle partielle
Idem	(2) The order shall specify in respect of which functions the person is found to be incapable.	(2) L'ordonnance précise les fonctions à l'égard desquelles la personne est déclarée incapable.	Idem
Powers of guardian	(3) Under an order for partial guardianship, the guardian may exercise those of the powers set out in subsection 56 (2) that are specified in the order, but only in respect of the functions in respect of which the person is found to be incapable.	(3) En vertu d'une ordonnance de tutelle partielle, le tuteur peut exercer les pouvoirs énoncés au paragraphe 56 (2) qui sont précisés dans l'ordonnance, mais seulement relativement aux fonctions à l'égard desquelles la personne est déclarée incapable.	Pouvoirs du tuteur
Variation	<b>58.</b> —(1) The court may, on any person's application, vary an order appointing a guardian of the person for an incapable person or substitute another person as guardian.	<b>58</b> (1) Le tribunal peut, à la requête de quiconque, modifier une ordonnance de nomination d'un tuteur à la personne à l'égard d'un incapable ou remplacer le tuteur par une autre personne.	Modification
Notice, advocate	(2) Sections 67 (service of notice, parties) and 74 (meeting with advocate) apply to the application, with necessary modifications.	(2) Les articles 67 (signification de l'avis, parties) et 74 (rencontre avec un intervenant) s'appliquent à la requête avec les adaptations nécessaires.	Avis, intervenant
Serious adverse effects	<b>59.</b> —(1) Serious illness or injury, or deprivation of liberty or personal security, are serious effects for the purposes of this section.	<b>59</b> (1) Pour l'application du présent article, constituent des conséquences préjudiciables graves, une maladie ou une lésion graves, ou une atteinte à la liberté ou à la sécurité de la personne.	Conséquences préjudiciables graves
Duty to investigate	(2) The Public Guardian and Trustee shall investigate any allegation that a person is incapable of personal care and that serious adverse effects are occurring or may occur as a result.	(2) Le Tuteur et curateur public enquête sur toute allégation selon laquelle une personne est incapable de prendre soin d'elle-même et selon laquelle des conséquences préjudiciables graves se produisent ou peuvent se produire en conséquence.	Enquête obligatoire
Application in urgent case	(3) If the Public Guardian and Trustee has reasonable grounds to believe that a person is incapable of personal care and that prompt action is required to protect the person from serious adverse effects, the Public Guardian and Trustee shall apply to the court for an order appointing him or her as the incapable person's temporary guardian of the person.	(3) Si le Tuteur et curateur public a des motifs raisonnables de croire qu'une personne est incapable de prendre soin d'elle-même et qu'il faut promptement prendre des mesures pour éviter des conséquences préjudiciables graves, le Tuteur et curateur public demande au tribunal, par voie de requête, de rendre une ordonnance le nommant tuteur temporaire à la personne de l'incapable.	Requête en cas d'urgence



Notice	(4) Notice of the application shall be served on the person alleged to be incapable, unless the court dispenses with notice in view of the nature and urgency of the matter.	(4) L'avis de requête est signifié à la personne prétendue incapable, à moins que le tribunal ne passe outre à la signification de l'avis étant donné la nature et l'urgence de l'affaire.	Avis
Advocate	(5) If notice of the application is served on the person, an advocate shall meet with the person before the hearing and shall explain to him or her the significance of the notice and the right to oppose the application.	(5) Si l'avis de requête est signifié à la personne, un intervenant rencontre cette dernière avant l'audience et lui explique l'importance de l'avis et son droit de s'opposer à la requête.	Intervenant
Order appointing temporary guardian	(6) The court may by order appoint the Public Guardian and Trustee as temporary guardian.	(6) Le tribunal peut, par ordonnance, nommer le Tuteur et curateur public tuteur temporaire.	Ordonnance
Duration of appointment	(7) The appointment is valid for a period not exceeding ninety days if notice was served on the person and not exceeding seven days if notice was dispensed with.	(7) La nomination est valide pendant une période qui ne dépasse pas quatre-vingt-dix jours si l'avis a été signifié à la personne et sept jours s'il a été passé outre à la signification de l'avis.	Durée de la nomination
Contents of order	(8) The order shall set out the Public Guardian and Trustee's powers as temporary guardian and any conditions imposed on the guardianship.	(8) L'ordonnance énonce les pouvoirs du Tuteur et curateur public en sa qualité de tuteur temporaire et précise les conditions s'appliquant à la tutelle, le cas échéant.	Contenu de l'ordonnance
Service of order	(9) If the order was made without notice, it shall be served on the person as soon as possible, and an advocate shall meet with the person and shall explain to him or her the effect of the order and the right to apply to terminate the guardianship.	(9) Si l'ordonnance a été rendue sans préavis, elle est signifiée à la personne dès que possible. Un intervenant rencontre cette dernière et lui explique l'effet de l'ordonnance et son droit de demander qu'il soit mis fin à la tutelle.	Signification de l'ordonnance
Power to apprehend person	(10) If the Public Guardian and Trustee has custodial power over the person and the court is satisfied that it may be necessary to apprehend him or her, the court may authorize the Public Guardian and Trustee to do so; in that case the Public Guardian and Trustee may, with the assistance of a police officer, enter the premises specified in the order, between 9 a.m. and 4 p.m. or during the hours specified in the order, and search for and remove the person, using such force as may be necessary.	(10) Si le Tuteur et curateur public possède un pouvoir de garde en ce qui concerne l'incapable et que le tribunal est convaincu qu'il peut être nécessaire d'appréhender l'incapable, le tribunal peut autoriser le Tuteur et curateur public à le faire. Dans ce cas, le Tuteur et curateur public peut, avec l'aide d'un agent de police, pénétrer dans les lieux précisés dans l'ordonnance entre 9 h et 16 h ou pendant les heures précisées dans l'ordonnance pour y chercher et en retirer l'incapable en ayant recours à la force éventuellement nécessaire.	Pouvoir d'appréhender l'incapable
Termination, variation of term	(11) On the application of the Public Guardian and Trustee or of the person under guardianship, the court may terminate the guardianship or reduce or extend its term.	(11) À la requête du Tuteur et curateur public ou de la personne en tutelle, le tribunal peut soit mettre fin à la tutelle, soit en réduire ou en prolonger la durée.	Fin de la tutelle ou modification de la durée
Application for termination	<b>60.</b> The court may, on any person's application, terminate a guardianship created under section 52.	<b>60</b> Le tribunal peut, à la requête de quiconque, mettre fin à la tutelle ouverte en vertu de l'article 52.	Requête visant à mettre fin à la tutelle
Suspension of guardian's powers	<b>61.</b> In an application to terminate a guardianship or temporary guardianship the court may, on motion, suspend the powers of the guardian or temporary guardian.	<b>61</b> Dans une requête visant à mettre fin à la tutelle d'un tuteur ou d'un tuteur temporaire, le tribunal peut, sur motion, suspendre les pouvoirs du tuteur ou du tuteur temporaire.	Suspension des pouvoirs du tuteur
Procedure	<b>62.</b> Part III (Procedure) applies to applications to terminate guardianships of the person.	<b>62</b> La partie III (Procédure) s'applique aux requêtes visant à mettre fin aux tutelles de la personne.	Procédure

DUTIES OF GUARDIANS OF THE PERSON  
AND ATTORNEYS FOR PERSONAL CAREOBLIGATIONS DES TUTEURS À LA  
PERSONNE ET DES PROCUREURS AU SOIN  
DE LA PERSONNEDuties of  
guardian

**63.—**(1) The powers and duties of a guardian of the person shall be exercised and performed diligently and in good faith.

**63** (1) Le tuteur à la personne exerce ses pouvoirs et s'acquitte de ses obligations avec diligence et de bonne foi.

Obligations  
du tuteur

Explanation

(2) The guardian shall explain to the incapable person what the guardian's powers and duties are.

(2) Le tuteur explique à l'incapable en quoi consistent ses pouvoirs et ses obligations.

Explication

Decisions on  
person's  
behalf

(3) The guardian shall make decisions on the person's behalf in accordance with the following principles:

(3) Le tuteur prend des décisions au nom de l'incapable conformément aux principes suivants :

Décisions au  
nom de l'in-  
capable

1. Any wishes the person expressed, orally or in writing, before becoming incapable shall be followed.

1. Il faut respecter les désirs que l'incapable a exprimés, oralement ou par écrit, avant de devenir incapable.

2. If the person has a power of attorney for personal care, any instructions contained in it shall be followed.

2. Si l'incapable a donné une procuration relative au soin de sa personne, il faut suivre les instructions qu'elle contient.

3. The guardian shall use reasonable diligence in ascertaining whether there are such instructions or wishes.

3. Le tuteur doit exercer un degré de diligence raisonnable lorsqu'il établit s'il existe de telles instructions ou de tels désirs.

4. In the event of an inconsistency, the instructions or wishes that are more recent or more specific shall be followed.

4. En cas d'incompatibilité, il faut suivre les instructions ou respecter les désirs les plus récents ou les plus précis.

5. If no instructions or wishes can be ascertained, the guardian shall make decisions on the person's behalf that are likely to promote the person's well-being.

5. S'il est impossible d'établir l'existence d'instructions ou de désirs de l'incapable, le tuteur doit prendre, au nom de celui-ci, des décisions qui favoriseront vraisemblablement son bien-être.

6. The guardian shall take the person's current wishes into consideration, if they can be ascertained.

6. Le tuteur tient compte des désirs courants de l'incapable, s'ils peuvent être établis.

Participation

(4) The guardian shall encourage the person to participate, to the best of his or her abilities, in the guardian's decisions on his or her behalf.

(4) Le tuteur encourage l'incapable à participer, autant qu'il peut, aux décisions que le tuteur prend en son nom.

Participation

Indepen-  
dence

(5) The guardian shall, as far as possible, seek to foster the person's independence.

(5) Le tuteur cherche, dans la mesure du possible, à favoriser l'indépendance de l'incapable.

Indépendance

Least restric-  
tive course  
of action

(6) The guardian shall choose the least restrictive and intrusive course of action that is available and is appropriate in the particular case.

(6) Le tuteur choisit les mesures les moins contraignantes et les moins perturbatrices qui soient disponibles et appropriées dans le cas visé.

Mesures les  
moins con-  
traignantesConfine-  
ment,  
restraint and  
monitoring  
devices

(7) The guardian shall not use confinement or monitoring devices or restrain the person physically or by means of drugs, and shall not give consent on the person's behalf to the use of confinement, monitoring devices or means of restraint, unless,

(7) Le tuteur ne doit pas utiliser le confinement ou des appareils de contrôle, ou maîtriser l'incapable physiquement ou au moyen de drogues, et il ne doit pas consentir, au nom de la personne, à l'utilisation du confinement, d'appareils de contrôle ou de moyens de maîtrise, sauf si :

Confinement,  
maîtrise et  
appareils de  
contrôle

(a) the practice is essential to prevent serious bodily harm to the person or to others, or allows the person greater freedom or enjoyment; and

a) d'une part, cette mesure s'impose pour empêcher que la personne ou d'autres subissent un préjudice physique grave, ou elle offre une liberté ou une jouissance accrues à la personne;



(b) the practice is consistent with the guardianship plan, if the guardian is not the Public Guardian and Trustee, or with the policies of the Public Guardian and Trustee, if he or she is the guardian.

Guardianship plan, policies of P.G.T.

(8) A guardian shall act in accordance with the guardianship plan, if the guardian is not the Public Guardian and Trustee, or with the policies of the Public Guardian and Trustee, if he or she is the guardian.

Amendment of plan

(9) If there is a guardianship plan, it may be amended from time to time with the Public Guardian and Trustee's approval.

Application for directions

(10) The guardian may apply to the court for directions on any question arising in the guardianship.

Idem

(11) The person or his or her dependant, the person's guardian of property, his or her attorney under a continuing power of attorney, the Public Guardian and Trustee, or any other person with leave of the court, may also apply to the court for directions to the guardian of the person on any question arising in the guardianship.

Immunity

(12) No proceeding for damages shall be commenced against a guardian for anything done or omitted in good faith in connection with the guardian's powers and duties under this Act.

Annual report

**64.—**(1) A guardian of the person shall prepare a report in the prescribed form as of the 31st day of December in each year.

Idem

- (2) The report shall indicate,
- (a) where the incapable person resides;
  - (b) what decisions concerning the person's health care and safety were made on his or her behalf during the year;
  - (c) whether the person objected to any decisions made on his or her behalf during the year and, if so, what those decisions were;
  - (d) any proposals by the guardian for changes in the guardianship plan; and
  - (e) whether an advocate has visited the person during the year.

Report to be given to persons on request

(3) The guardian shall, on request, give a copy of the report to any of the following persons:

1. The incapable person.
2. The incapable person's guardian of property or attorney under a continuing power of attorney.

b) d'autre part, cette mesure est compatible avec le plan de tutelle, si le tuteur n'est pas le Tuteur et curateur public, ou avec les politiques du Tuteur et curateur public, si celui-ci est le tuteur.

(8) Le tuteur agit conformément au plan de tutelle, s'il n'est pas le Tuteur et curateur public, ou conformément aux politiques du Tuteur et curateur public, si celui-ci est le tuteur.

Plan de tutelle, politiques du T.C.P.

(9) S'il y a un plan de tutelle, il peut être modifié à l'occasion avec l'approbation du Tuteur et curateur public.

Modification du plan

(10) Le tuteur peut, par voie de requête, demander au tribunal de lui donner des directives sur toute question se posant dans le cadre de la tutelle.

Requête visant à obtenir des directives

(11) L'incapable ou une personne à sa charge, le tuteur aux biens de l'incapable, son procureur constitué en vertu d'une procuration perpétuelle, le Tuteur et curateur public ou toute autre personne avec l'autorisation du tribunal peut aussi, par voie de requête, demander au tribunal de donner au tuteur à la personne des directives sur toute question se posant dans le cadre de la tutelle.

Idem

(12) Est irrecevable la poursuite en dommages-intérêts intentée contre un tuteur pour toute action ou omission faite de bonne foi relativement aux pouvoirs que lui confère la présente loi et aux obligations que lui impose celle-ci.

Immunité

**64** (1) Le tuteur à la personne rédige un rapport au 31 décembre de chaque année selon la formule prescrite.

Rapport annuel

(2) Le rapport indique :

Idem

- a) l'endroit où réside l'incapable;
- b) les décisions qui ont été prises au nom de l'incapable pendant l'année relativement aux soins médicaux à lui prodiguer et à sa sécurité;
- c) le fait que l'incapable s'est opposé ou non à des décisions prises en son nom pendant l'année et, dans l'affirmative, la nature de ces décisions;
- d) toute modification proposée au plan de tutelle par le tuteur;
- e) le fait qu'un intervenant a rendu visite ou non à l'incapable pendant l'année.

(3) Sur demande, le tuteur remet une copie du rapport aux personnes suivantes :

Rapport aux personnes qui le demandent

1. L'incapable.
2. Le tuteur aux biens de l'incapable ou le procureur nommé en vertu d'une procuration perpétuelle.

	3. The Public Guardian and Trustee, if he or she is not the guardian.	3. Le Tuteur et curateur public, s'il n'est pas le tuteur.	
Particulars	(4) A person who has been given a copy of the report is entitled, on request, to further particulars in respect of it.	(4) La personne à qui a été remise une copie du rapport a droit, sur demande, à des détails supplémentaires à son sujet.	Détails
Change of person's residence	<b>65.</b> —(1) An incapable person's guardian of the person shall promptly notify the Public Guardian and Trustee of any change in the incapable person's place of residence.	<b>65</b> (1) Le tuteur à la personne d'un incapable avise promptement le Tuteur et curateur public de tout changement de résidence de l'incapable.	Changement de résidence de l'incapable
Change to more restrictive setting	(2) The guardian shall not change the incapable person's place of residence to a more restrictive setting unless,	(2) Le tuteur ne doit pas changer l'incapable de résidence pour le placer dans des conditions plus contraignantes à moins que l'une des conditions suivantes ne soit remplie :	Placement dans des conditions plus contraignantes
	(a) the Public Guardian and Trustee, and the incapable person's guardian of property or his or her attorney under a continuing power of attorney, if any, consent to the change; or	a) le Tuteur et curateur public ainsi que le tuteur aux biens de l'incapable ou son procureur constitué en vertu d'une procuration perpétuelle, le cas échéant, consentent à ce changement;	
	(b) the court, on the guardian's application, authorizes the change.	b) le tribunal, à la requête du tuteur, autorise ce changement.	
Duties of attorney	<b>66.</b> Sections 63 to 65 also apply, with necessary modifications, to an attorney under a power of attorney for personal care that has been validated under section 49.	<b>66</b> Les articles 63 à 65 s'appliquent aussi, avec les adaptations nécessaires, à un procureur constitué en vertu d'une procuration relative au soin de la personne qui a été validée aux termes de l'article 49.	Obligations du procureur

## PART III

## PROCEDURE IN GUARDIANSHIP APPLICATIONS

**67.**—(1) Notice of an application to appoint a guardian of property shall be served on the following persons, together with the documents referred to in subsection 68 (1), and those referred to in section 70 if applicable:

1. The person alleged to be incapable of managing property.
2. The attorney under his or her continuing power of attorney, if known.
3. His or her guardian of the person, if known.
4. His or her attorney for personal care, if known.
5. The Public Guardian and Trustee.
6. The proposed guardian of property.

(2) Notice of an application to terminate guardianship of property shall be served on the following persons, together with the documents referred to in section 71 if applicable:

1. The person whose property is under guardianship.
2. His or her guardian of the person, if known.
3. His or her attorney for personal care, if known.

Idem, application to terminate guardianship of property

## PARTIE III

## PROCÉDURE À L'ÉGARD DES REQUÊTES RELATIVES À LA TUTELLE

**67** (1) L'avis de la requête en nomination d'un tuteur aux biens est signifié, avec les documents visés au paragraphe 68 (1) ainsi que ceux visés à l'article 70, si cet article s'applique, aux personnes suivantes :

1. La personne prétendue incapable de gérer ses biens.
2. Le procureur constitué en vertu de sa procuration perpétuelle, s'il est connu.
3. Le tuteur à sa personne, s'il est connu.
4. Le procureur au soin de sa personne, s'il est connu.
5. Le Tuteur et curateur public.
6. Le tuteur aux biens proposé.

(2) L'avis de la requête visant à mettre fin à la tutelle des biens est signifié, avec les documents visés à l'article 71, si cet article s'applique, aux personnes suivantes :

1. La personne dont les biens sont mis sous tutelle.
2. Le tuteur à sa personne, s'il est connu.
3. Le procureur au soin de sa personne, s'il est connu.

Signification de l'avis, requête en nomination d'un tuteur aux biens

Idem, requête visant à mettre fin à la tutelle des biens



## 4. The Public Guardian and Trustee.

## 5. The guardian of property.

Idem, appli-  
cation to  
appoint  
guardian of  
the person

(3) Notice of an application to appoint a guardian of the person shall be served on the following persons, together with the documents referred to in subsection 68 (2), and those referred to in subsection 69 (1) and section 72 if applicable:

1. The person alleged to be incapable of personal care.
2. The attorney under his or her continuing power of attorney, if known.
3. His or her guardian of property, if known.
4. His or her attorney for personal care, if known.
5. The Public Guardian and Trustee.
6. The proposed guardian of the person.

Idem, appli-  
cation to  
terminate  
guardianship  
of the  
person

(4) Notice of an application to terminate a guardianship of the person shall be served on the following persons, together with the documents referred to in section 73 if applicable:

1. The person under guardianship.
2. His or her guardian of property, if known.
3. The attorney under his or her continuing power of attorney, if known.
4. The Public Guardian and Trustee.
5. The guardian of the person.

Idem

(5) The notice and accompanying documents need not be served on the applicant.

Service on  
family

(6) The notice and accompanying documents shall also be served on all of the following persons who are known, by ordinary mail sent to the person's last known address:

1. The spouse or partner of the person who is alleged to be incapable of managing property, whose property is under guardianship, who is alleged to be incapable of personal care or who is under guardianship of the person, as the case may be.
2. The person's children who are at least eighteen years old, in the case of an application under Part I (Property), or at least sixteen years old, in the case of an application under Part II (The Person).
3. The person's parents.
4. The person's brothers and sisters who have attained the relevant age referred to in paragraph 2.

## 4. Le Tuteur et curateur public.

## 5. Le tuteur aux biens.

(3) L'avis de la requête en nomination d'un tuteur à la personne est signifié, avec les documents visés au paragraphe 68 (2) ainsi que ceux visés au paragraphe 69 (1) et à l'article 72, si ceux-ci s'appliquent, aux personnes suivantes :

1. La personne prétendue incapable de prendre soin d'elle-même.
2. Le procureur constitué en vertu de sa procuration perpétuelle, s'il est connu.
3. Le tuteur à ses biens, s'il est connu.
4. Le procureur au soin de sa personne, s'il est connu.
5. Le Tuteur et curateur public.
6. Le tuteur à la personne proposé.

(4) L'avis de la requête visant à mettre fin à la tutelle de la personne est signifié, avec les documents visés à l'article 73, si cet article s'applique, aux personnes suivantes :

1. La personne en tutelle.
2. Le tuteur à ses biens, s'il est connu.
3. Le procureur constitué en vertu de sa procuration perpétuelle, s'il est connu.
4. Le Tuteur et curateur public.
5. Le tuteur à la personne.

(5) Il n'est pas nécessaire de signifier au requérant l'avis et les documents qui y sont joints.

(6) L'avis et les documents qui y sont joints sont également signifiés à toutes les personnes suivantes qui sont connues, par courrier ordinaire envoyé à la dernière adresse connue de la personne :

1. Le conjoint ou le partenaire de la personne qui est prétendue incapable de gérer ses biens, dont les biens sont mis sous tutelle, qui est prétendue incapable de prendre soin d'elle-même ou qui est en tutelle de la personne, selon le cas.
2. Les enfants de la personne qui sont âgés d'au moins dix-huit ans, dans le cas d'une requête présentée aux termes de la partie I (Biens), ou d'au moins seize ans, dans le cas d'une requête présentée aux termes de la partie II (Personne).
3. Le père et la mère de la personne.
4. Les frères et soeurs de la personne qui ont l'âge pertinent visé à la disposition 2.

Idem, requête  
en nomina-  
tion d'un  
tuteur à la  
personne

Idem, requête  
visant à met-  
tre fin à la  
tutelle de la  
personne

Idem

Signification à  
la famille

Exception	(7) Subsection (6) does not require service on a person whose existence or address cannot be ascertained by the use of reasonable diligence.	(7) Le paragraphe (6) n'exige pas que la signification soit faite à une personne dont l'existence ou l'adresse ne peuvent pas être établies malgré une diligence raisonnable.	Exception
Parties	(8) The parties to the application are the applicant and the persons served under subsections (1), (2), (3) or (4), as the case may be.	(8) Sont parties à la requête le requérant et les personnes qui ont reçu signification de l'avis en vertu du paragraphe (1), (2), (3) ou (4), selon le cas.	Parties
Adding parties	(9) Any of the following persons is entitled to be added as a party at any stage in the proceeding:	(9) Les personnes suivantes ont le droit d'être jointes comme partie à une étape quelconque de l'instance :	Parties jointes
	1. A person referred to in paragraph 2, 3 or 4 of subsection (1), paragraph 2 or 3 of subsection (2), paragraph 2, 3 or 4 of subsection (3) or paragraph 2 or 3 of subsection (4), as the case may be, who was not served with the notice of application.	1. Une personne visée à la disposition 2, 3 ou 4 du paragraphe (1), à la disposition 2 ou 3 du paragraphe (2), à la disposition 2, 3 ou 4 du paragraphe (3) ou à la disposition 2 ou 3 du paragraphe (4), selon le cas, qui n'a pas reçu signification de l'avis de requête.	
	2. A person referred to in subsection (6), whether served with the notice of application or not.	2. Une personne visée au paragraphe (6), qu'elle ait ou non reçu signification de l'avis de requête.	
Idem	(10) In order to be added as a party, the person shall serve a notice of appearance on every other person who was served with the notice of application and shall file it with proof of service.	(10) Pour être jointe comme partie, la personne signifie un avis de comparution à chacune des autres personnes qui ont reçu signification de l'avis de requête et le dépose avec la preuve de la signification.	Idem
Advocate	(11) The applicant shall ensure that an advocate receives a copy of the notice of application and of the accompanying documents when they are served on the parties.	(11) Le requérant fait en sorte qu'un intervenant reçoive une copie de l'avis de requête et des documents qui y sont joints lorsqu'ils sont signifiés aux parties.	Intervenant
Required documents, application to appoint guardian of property	<b>68.</b> —(1) An application to appoint a guardian of property shall be accompanied by,	<b>68</b> (1) Les documents suivants sont joints à la requête en nomination d'un tuteur aux biens :	Documents requis, requête en nomination d'un tuteur aux biens
	(a) the proposed guardian's consent;	a) le consentement du tuteur proposé;	
	(b) if the proposed guardian is not the Public Guardian and Trustee, a plan of management for the property, in the prescribed form; and	b) si le tuteur proposé n'est pas le Tuteur et curateur public, un plan de gestion des biens, dressé selon la formule prescrite;	
	(c) if the proposed guardian is not the Public Guardian and Trustee, one of the following:	c) si le tuteur proposé n'est pas le Tuteur et curateur public, une des pièces suivantes :	
	1. The Public Guardian and Trustee's certificate that he or she has examined and approved the plan of management, has assessed the proposed guardian and any arrangements for security and does not object to the appointment.	1. Le certificat du Tuteur et curateur public portant qu'il a examiné et approuvé le plan de gestion et évalué le tuteur proposé ainsi que les dispositions prises en vue du cautionnement, le cas échéant, et qu'il ne s'oppose pas à la nomination.	
	2. The Public Guardian and Trustee's reasons for not giving the certificate.	2. Les motifs pour lesquels le Tuteur et curateur public ne donne pas le certificat.	
Idem, application to appoint guardian of the person	(2) An application to appoint a guardian of the person shall be accompanied by,	(2) Les documents suivants sont joints à la requête en nomination d'un tuteur à la personne :	Idem, requête en nomination d'un tuteur à la personne
	(a) the proposed guardian's consent;	a) le consentement du tuteur proposé;	



- (b) if the proposed guardian is not the Public Guardian and Trustee, a guardianship plan, in the prescribed form; and
- (c) if the proposed guardian is not the Public Guardian and Trustee, one of the following:

1. The Public Guardian and Trustee's certificate that he or she has examined and approved the guardianship plan, has assessed the proposed guardian and does not object to the appointment.
2. The Public Guardian and Trustee's reasons for not giving the certificate.

Optional documents, application to appoint guardian of the person

**69.**—(1) An application to appoint a guardian of the person may also be accompanied by one or more statements, each made in the prescribed form by a person who knows the person alleged to be incapable and has been in personal contact with him or her during the twelve months before the notice of application was issued.

Idem, application to terminate guardianship of the person

(2) An application to terminate a guardianship of the person may be accompanied by one or more statements, each made in the prescribed form by a person who knows the person under guardianship and has been in personal contact with him or her during the twelve months before the notice of application was issued.

Required documents, summary disposition, application to appoint guardian of property

**70.**—(1) If the applicant wishes an application to appoint a guardian of property to be dealt with under section 75 (summary disposition), it shall also be accompanied by two statements made in the prescribed form, one by a physician and the other by an assessor or by a person who knows the person alleged to be incapable and has been in personal contact with him or her during the twelve months before the notice of application was issued.

Contents of statements

- (2) Each statement shall,
  - (a) indicate that its maker is of the opinion that the person is incapable of managing property, and set out the facts on which the opinion is based; and
  - (b) indicate that its maker can expect no direct or indirect pecuniary benefit as the result of the appointment of a guardian of property.

Idem

(3) The statement may also indicate that its maker is of the opinion that it is necessary for decisions to be made on the person's behalf by a person who is authorized to do so and, in that case, shall set out the facts on which the opinion is based.

- b) si le tuteur proposé n'est pas le Tuteur et curateur public, un plan de tutelle, dressé selon la formule prescrite;

- c) si le tuteur proposé n'est pas le Tuteur et curateur public, une des pièces suivantes :

1. Le certificat du Tuteur et curateur public portant qu'il a examiné et approuvé le plan de tutelle et évalué le tuteur proposé, et qu'il ne s'oppose pas à la nomination.
2. Les motifs pour lesquels le Tuteur et curateur public ne donne pas le certificat.

**69** (1) Peuvent aussi être jointes à la requête en nomination d'un tuteur à la personne une ou plusieurs déclarations faites chacune selon la formule prescrite par une personne qui connaît la personne prétendue incapable et qui a été personnellement en contact avec elle au cours des douze mois précédant la délivrance de l'avis de requête.

Documents facultatifs, requête en nomination d'un tuteur à la personne

(2) Peuvent être jointes à la requête visant à mettre fin à une tutelle de la personne une ou plusieurs déclarations faites chacune selon la formule prescrite par une personne qui connaît la personne en tutelle et qui a été personnellement en contact avec elle au cours des douze mois précédant la délivrance de l'avis de requête.

Idem, requête visant à mettre fin à une tutelle de la personne

**70** (1) Si le requérant désire qu'une requête en nomination d'un tuteur aux biens soit traitée en vertu de l'article 75 (règlement sommaire), il y joint également deux déclarations, faites selon la formule prescrite, l'une par un médecin et l'autre par un évaluateur ou par une personne qui connaît la personne prétendue incapable et qui a été personnellement en contact avec elle au cours des douze mois précédant la délivrance de l'avis de requête.

Documents requis, règlement sommaire, requête en nomination d'un tuteur aux biens

- (2) Chaque déclaration :

Contenu des déclarations

- a) indique que son auteur est d'avis que la personne est incapable de gérer ses biens et expose les faits sur lesquels cette opinion est fondée;
- b) indique que son auteur ne peut attendre aucun avantage pécuniaire, direct ou indirect, résultant de la nomination d'un tuteur aux biens.

(3) La déclaration peut aussi indiquer que son auteur est d'avis qu'il faut qu'une personne autorisée à le faire prenne des décisions au nom de la personne. Dans ce cas, la déclaration expose les faits sur lesquels cette opinion est fondée.

Idem

Idem

(4) Each statement made in the prescribed form by a physician or assessor shall indicate that its maker performed an assessment of the person's capacity during the six months before the notice of application was issued.

Required documents, summary disposition, application to terminate guardianship of property

**71.**—(1) If the applicant wishes an application to terminate a guardianship of property to be dealt with under section 75 (summary disposition), it shall be accompanied by,

- (a) two statements, each made in the prescribed form by a person who knows the person whose property is under guardianship and has been in personal contact with him or her during the twelve months before the notice of application was issued;
- (b) if only one statement referred to in clause (a) can be obtained, that statement as well as a statement made in the prescribed form by a physician or assessor; and
- (c) if no statement referred to in clause (a) can be obtained, two statements, each made in the prescribed form by a physician or assessor.

Contents of statements

- (2) Each statement shall,
  - (a) indicate that the maker of the statement is of the opinion that the person is capable of managing property, and set out the facts on which the opinion is based; and
  - (b) indicate that the maker of the statement can expect no direct or indirect pecuniary benefit as the result of the termination of the guardianship.

Idem

(3) Each statement made in the prescribed form by a physician or assessor shall indicate that its maker performed an assessment of the person's capacity during the six months before the notice of application was issued.

Required documents, summary disposition, application to appoint guardian of the person

**72.**—(1) If the applicant wishes an application to appoint a guardian of the person to be dealt with under section 75 (summary disposition), the application shall also be accompanied by two statements made in the prescribed form, one by a physician and the other by an assessor.

Contents of statement

(2) Each statement shall indicate that its maker is of the opinion that the person is incapable in respect of the functions referred to in section 46 (personal care), or in respect of some of them, and shall set out the facts on which the opinion is based.

Idem

(3) The statement may also indicate that its maker is of the opinion that the person needs decisions to be made on his or her behalf by a person who is authorized to do so

(4) Chaque déclaration faite selon la formule prescrite par un médecin ou un évaluateur indique que son auteur a évalué la capacité de la personne au cours des six mois précédant la délivrance de l'avis de requête.

Idem

**71** (1) Si le requérant désire qu'une requête visant à mettre fin à une tutelle des biens soit traitée en vertu de l'article 75 (règlement sommaire), il y joint également :

Documents requis, règlement sommaire, requête visant à mettre fin à une tutelle des biens

- a) deux déclarations, faites chacune selon la formule prescrite par une personne qui connaît la personne dont les biens sont mis sous tutelle et qui a été personnellement en contact avec elle au cours des douze mois précédant la délivrance de l'avis de requête;
- b) s'il n'est possible d'obtenir qu'une seule déclaration visée à l'alinéa a), cette déclaration ainsi qu'une déclaration faite selon la formule prescrite par un médecin ou un évaluateur;
- c) s'il n'est possible d'obtenir aucune des déclarations visées à l'alinéa a), deux déclarations, faites chacune selon la formule prescrite par un médecin ou un évaluateur.

(2) Chaque déclaration :

Contenu des déclarations

- a) indique que son auteur est d'avis que la personne est capable de gérer ses biens et expose les faits sur lesquels cette opinion est fondée;
- b) indique que son auteur ne peut attendre aucun avantage pécuniaire, direct ou indirect, résultant de la fin de la tutelle des biens.

(3) Chaque déclaration faite selon la formule prescrite par un médecin ou un évaluateur indique que son auteur a évalué la capacité de la personne au cours des six mois précédant la délivrance de l'avis de requête.

Idem

**72** (1) Si le requérant désire qu'une requête en nomination d'un tuteur à la personne soit traitée en vertu de l'article 75 (règlement sommaire), il y joint également deux déclarations faites selon la formule prescrite, une par un médecin et l'autre par un évaluateur.

Documents requis, règlement sommaire, requête en nomination d'un tuteur à la personne

(2) Chaque déclaration indique que son auteur est d'avis que la personne est incapable à l'égard des fonctions visées à l'article 46 (soin de la personne), ou à l'égard de certaines d'entre elles, et expose les faits sur lesquels cette opinion est fondée.

Contenu des déclarations

(3) La déclaration peut aussi indiquer que son auteur est d'avis que la personne a besoin qu'une personne autorisée à le faire prenne des décisions en son nom. Dans ce

Idem



and, in that case, shall set out the facts on which the opinion is based.

Idem

(4) Each statement shall,

(a) indicate that its maker performed an assessment of the person's capacity during the six months before the notice of application was issued; and

(b) contain an evaluation of the nature and extent of the person's incapacity, setting out the facts on which the evaluation is based.

Required documents, summary disposition, application to terminate guardianship of the person

**73.—**(1) If the applicant wishes an application to terminate a guardianship of the person to be dealt with under section 75 (summary disposition), the application shall also be accompanied by two statements made in the prescribed form, one by a physician and the other by an assessor.

Contents of statements

(2) Each statement shall indicate that its maker is of the opinion that the person is capable of personal care, and shall set out the facts on which the opinion is based.

Idem

(3) Each statement shall indicate that its maker performed an assessment of the person's capacity during the six months before the notice of application was issued.

Meeting with advocate

**74.—**(1) An advocate shall meet with the person who is alleged to be incapable of managing property, whose property is under guardianship, who is alleged to be incapable of personal care or who is under guardianship of the person, as the case may be, and shall explain to him or her the significance of the notice of application and accompanying documents and the right to oppose the application.

Advocate's statement

(2) The applicant shall file the advocate's statement, in the prescribed form, indicating that the advocate has complied with subsection (1), or that he or she was prevented from meeting with the person despite attempts to do so.

Idem

(3) If the advocate was prevented from meeting with the person, the statement shall contain a detailed explanation.

Statement obligatory

(4) The court shall not make an order unless the advocate's statement has been filed.

Exception

(5) This section does not apply in the case of an application to terminate a guardianship if the applicant is the person whose property is under guardianship or who is under guardianship of the person.

Summary disposition

**75.—**(1) Under this section, the court may make an order without anyone appearing before it and without holding a hearing.

cas, la déclaration expose les faits sur lesquels cette opinion est fondée.

Idem

(4) Chaque déclaration :

a) indique que son auteur a évalué la capacité de la personne au cours des six mois précédant la délivrance de l'avis de requête;

b) contient une évaluation de la nature et de la gravité de l'incapacité de la personne et précise les faits sur lesquels cette évaluation est fondée.

**73** (1) Si le requérant désire qu'une requête visant à mettre fin à une tutelle de la personne soit traitée en vertu de l'article 75 (règlement sommaire), il y joint également deux déclarations faites selon la formule prescrite, une par un médecin et l'autre par un évaluateur.

Documents requis, règlement sommaire, requête visant à mettre fin à une tutelle de la personne

(2) Chaque déclaration indique que son auteur est d'avis que la personne est capable de prendre soin d'elle-même et expose les faits sur lesquels cette opinion est fondée.

Contenu des déclarations

(3) Chaque déclaration indique que son auteur a évalué la capacité de la personne au cours des six mois précédant la délivrance de l'avis de requête.

Idem

**74** (1) Un intervenant rencontre la personne prétendue incapable de gérer ses biens, dont les biens sont mis sous tutelle, qui est prétendue incapable de prendre soin d'elle-même ou qui est en tutelle, selon le cas, lui explique l'importance de l'avis de requête et des documents qui y sont joints et l'informe de son droit de s'opposer à la requête.

Rencontre avec un intervenant

(2) Le requérant dépose la déclaration de l'intervenant, faite selon la formule prescrite, indiquant soit que ce dernier s'est conformé au paragraphe (1), soit qu'il a essayé à plusieurs reprises de rencontrer la personne, mais qu'il en a été empêché.

Déclaration de l'intervenant

(3) Si l'intervenant a été empêché de rencontrer la personne, la déclaration comprend une explication détaillée des faits.

Idem

(4) Le tribunal ne doit pas rendre d'ordonnance à moins que la déclaration de l'intervenant n'ait été déposée.

Déclaration obligatoire

(5) Le présent article ne s'applique pas aux requêtes visant à mettre fin à une tutelle si le requérant est la personne dont les biens sont mis sous tutelle ou qui est en tutelle.

Exception

**75** (1) En vertu du présent article, le tribunal peut rendre une ordonnance sans que personne ne compare devant lui et sans tenir d'audience.

Règlement sommaire

Idem

(2) The registrar of the court shall submit the notice of application and accompanying documents to a judge of the court if the following conditions are satisfied:

1. No person has delivered a notice of appearance.
2. The appropriate documents accompany the application.
3. In the case of an application to appoint a guardian of property, at least one of the statements referred to in section 70 indicates that its maker is of the opinion that it is necessary for decisions to be made on the person's behalf by a person who is authorized to do so.
4. In the case of an application to appoint a guardian of the person, at least one of the statements referred to in section 72 indicates that its maker is of the opinion that the person needs decisions to be made on his or her behalf by a person who is authorized to do so.

Order

(3) On considering the application, the judge may,

- (a) grant the relief sought;
- (b) require the parties or their counsel to adduce additional evidence or make representations; or
- (c) order that the application, or any issue, proceed to trial, and give such directions as are just.

#### PART IV

##### MISCELLANEOUS

Order for examination

**76.**—(1) If a person's capacity is in issue in a proceeding under this Act and the court is satisfied that there are reasonable grounds to believe that the person is incapable, the court may, on motion or on its own initiative, order that the person be examined by one or more examiners named in the order, for the purpose of giving an opinion as to the person's capacity.

Idem

- (2) The order may require the person,
  - (a) to submit to the examination;
  - (b) to permit entry to his or her home for the purpose of the examination;
  - (c) to attend at such other places and at such times as are specified in the order.

Examiner

(3) An examiner must be a physician or an assessor.

(2) Le greffier du tribunal présente l'avis de requête et les documents qui y sont joints à un juge du tribunal si les conditions suivantes sont remplies :

Idem

1. Personne n'a remis d'avis de comparution.
2. Les documents appropriés sont joints à la requête.
3. Dans le cas d'une requête en nomination d'un tuteur aux biens, au moins une des déclarations visées à l'article 70 indique que son auteur est d'avis qu'il faut qu'une personne autorisée à le faire prenne des décisions au nom de la personne.
4. Dans le cas d'une requête en nomination d'un tuteur à la personne, au moins une des déclarations visées à l'article 72 indique que son auteur est d'avis que la personne a besoin qu'une personne autorisée à le faire prenne des décisions en son nom.

(3) Après avoir étudié la requête, le juge peut, selon le cas :

Ordonnance

- a) accorder le redressement demandé;
- b) exiger des parties ou de leurs avocats qu'ils produisent des preuves supplémentaires ou présentent des observations;
- c) ordonner l'instruction de la requête ou de tout point en litige, et donner des directives justes.

#### PARTIE IV

##### DISPOSITIONS DIVERSES

**76** (1) Si la capacité d'une personne est en cause dans une instance introduite en vertu de la présente loi et que le tribunal est convaincu qu'il existe des motifs raisonnables de croire que la personne est incapable, le tribunal peut, sur motion ou de sa propre initiative, ordonner qu'un ou plusieurs examinateurs nommés dans l'ordonnance examinent la personne afin de donner une opinion sur sa capacité.

Ordonnance d'examen

(2) L'ordonnance peut exiger que la personne :

Idem

- a) se soumettre à l'examen;
- b) autorise l'accès à son domicile aux fins de l'examen;
- c) se présente aux autres endroits, aux dates et aux heures précisés dans l'ordonnance.

(3) L'examineur doit être médecin ou évaluateur.

Examineur



Place of examination	(4) The order shall specify the place or places where the examination is to be conducted.	(4) L'ordonnance précise le ou les endroits où doit se faire l'examen.	Lieu d'examen
Idem	(5) If possible, the examination shall be conducted in the person's home.	(5) L'examen se fait, si possible, chez la personne.	Idem
Health facility	(6) An order that specifies a health facility as the place where the examination is to be conducted authorizes the person's admission to the facility for the purpose of the examination.	(6) L'ordonnance qui précise comme lieu d'examen un établissement de santé autorise l'admission de la personne à l'établissement aux fins de l'examen.	Établissement de santé
Restraining order	<b>77.</b> —(1) When an order for an examination has been made, the court may, on motion, make an order restraining a person other than the one whose capacity is in issue from hindering or obstructing the examination.	<b>77</b> (1) Lorsqu'une ordonnance d'examen a été rendue, le tribunal peut, sur motion, rendre une ordonnance enjoignant à toute personne autre que celle dont la capacité est en cause de ne pas gêner ou entraver l'examen.	Ordonnance de ne pas faire
Advocate's statement	(2) The motion shall be accompanied by,  (a) an advocate's written statement that he or she has met with the person and has explained the order for examination;  (b) if the advocate has been prevented from meeting with the person to explain the order, the advocate's written statement that he or she made efforts to do so, with an explanation why the efforts were unsuccessful.	(2) Le document suivant est joint à la motion, selon le cas :  a) une déclaration écrite d'un intervenant portant qu'il a rencontré la personne et lui a expliqué l'ordonnance d'examen;  b) si l'intervenant a été empêché de rencontrer la personne pour lui expliquer l'ordonnance, une déclaration écrite de l'intervenant portant qu'il a fait des démarches à cet effet, avec une explication de la raison pour laquelle elles ont été vaines.	Déclaration de l'intervenant
Notice to person	(3) The party moving for the restraining order shall serve notice of the motion on the person against whom the order is sought.	(3) La partie qui demande que soit rendue une ordonnance de ne pas faire signifie un avis de la motion à la personne à viser par l'ordonnance.	Avis à la personne
Order for enforcement	<b>78.</b> —(1) When an order for an examination has been made, the court may, on motion, order the Public Guardian and Trustee, together with a police officer, to apprehend the person whose capacity is in issue, take him or her into custody and bring him or her to a specified place to be examined there, if the court is satisfied that,  (a) the examiner named in the first order has made all efforts that are reasonable in the circumstances to examine the person;  (b) the examiner was prevented from examining the person by the actions of the person or of others;  (c) a restraining order is not appropriate in the circumstances, or has already been used without success; and  (d) there is no less intrusive means of permitting the examination to be conducted than an order under this subsection.	<b>78</b> (1) Lorsqu'une ordonnance d'examen a été rendue, le tribunal peut, sur motion, ordonner au Tuteur et curateur public d'appréhender, avec un agent de police, la personne dont la capacité est en cause, de l'amener sous garde et de la conduire à un endroit précis pour l'y examiner, si le tribunal est convaincu que les conditions suivantes sont réunies :  a) le préposé à l'examen nommé dans la première ordonnance a fait toutes les démarches raisonnables dans les circonstances pour examiner la personne;  b) les actes de la personne ou d'autres personnes ont empêché le préposé à l'examen d'examiner la personne;  c) une ordonnance de ne pas faire est inopportune dans les circonstances, ou a déjà été utilisée sans succès;  d) il n'existe aucune mesure qui soit moins perturbatrice qu'une ordonnance rendue en vertu du présent paragraphe pour permettre que l'examen soit fait.	Ordonnance d'exécution

Advocate's statement	(2) The motion shall be accompanied by,	(2) Le document suivant est joint à la motion, selon le cas :	Déclaration de l'intervenant
	(a) an advocate's written statement that he or she has met with the person and has explained the order for examination;	a) une déclaration écrite d'un intervenant portant qu'il a rencontré la personne et lui a expliqué l'ordonnance d'examen;	
	(b) if the advocate has been prevented from meeting with the person to explain the order, the advocate's written statement that he or she made efforts to do so, with an explanation why the efforts were unsuccessful.	b) si l'intervenant a été empêché de rencontrer la personne pour lui expliquer l'ordonnance, une déclaration écrite de l'intervenant portant qu'il a fait des démarches à cet effet, avec une explication de la raison pour laquelle elles ont été vaines.	
Duration of order	(3) The order is valid for seven days.	(3) L'ordonnance est valide pendant sept jours.	Durée de l'ordonnance
Execution of order	(4) The Public Guardian and Trustee and a police officer may enter the place specified in the order, between 9 a.m. and 4 p.m. or during the hours specified in the order, and may search for and remove the person, using such force as may be necessary.	(4) Le Tuteur et curateur public et l'agent de police peuvent pénétrer dans l'endroit précisé dans l'ordonnance entre 9 h et 16 h ou pendant les heures précisées dans l'ordonnance et y chercher et en retirer la personne, en ayant recours à la force éventuellement nécessaire.	Exécution de l'ordonnance
Health facility	(5) An order under subsection (1) that specifies a health facility as the place where the examination is to be conducted authorizes the person's admission to the facility and his or her detention there, for the purpose of the examination.	(5) L'ordonnance rendue en vertu du paragraphe (1) qui précise comme lieu d'examen un établissement de santé autorise l'admission et la détention de la personne dans l'établissement aux fins de l'examen.	Établissement de santé
Restrictions	(6) The person shall not be held in custody longer than is necessary for the purpose of the examination, and in any case not for a period exceeding seventy-two hours, and while in custody shall not be confined in a manner that exceeds what is necessary for the purpose of the examination.	(6) La personne ne doit pas être détenue plus longtemps qu'il ne faut pour les besoins de l'examen et, en aucun cas, pendant plus de soixante-douze heures. Pendant sa détention, elle ne doit pas être enfermée d'une manière qui excède ce qui est nécessaire pour les besoins de l'examen.	Restrictions
Statements as evidence	<b>79.</b> For the purposes of this Act, a statement in the prescribed form that purports to be signed by its maker is admissible in evidence without proof of his or her signature, office or professional qualifications.	<b>79</b> Pour l'application de la présente loi, une déclaration faite selon la formule prescrite qui se présente comme étant signée par son auteur est admissible en preuve sans qu'il soit nécessaire d'établir l'authenticité de la signature de cette personne ni sa qualité officielle ou sa qualification professionnelle.	Admissibilité des déclarations en preuve
Mediation	<b>80.</b> If a dispute arises between a person's guardian of the person or attorney for personal care and his or her guardian of property or attorney under a continuing power of attorney, in the performance of their duties, the Public Guardian and Trustee shall mediate between them and seek to resolve the dispute.	<b>80</b> Si un conflit surgit entre le tuteur à la personne d'un incapable ou son procureur au soin de la personne et son tuteur aux biens ou son procureur constitué en vertu d'une procuration perpétuelle, dans l'exercice de leurs fonctions, le Tuteur et curateur public fait office de médiateur entre eux et s'efforce de résoudre le conflit.	Médiation
Refusal to meet with advocate	<b>81.</b> An advocate is not required to meet with a person and explain a matter to him or her if the person himself or herself refuses to meet with the advocate.	<b>81</b> L'intervenant n'est pas tenu de rencontrer une personne et de lui expliquer une question si la personne elle-même refuse de le rencontrer.	Refus de rencontrer l'intervenant
Offence: obstruction	<b>82.—(1)</b> No person shall hinder or obstruct,	<b>82</b> (1) Nul ne doit gêner ni entraver :	Infraction : entrave
	(a) a person who is conducting an examination ordered under section 76, or is seeking to do so;	a) une personne qui fait ou cherche à faire un examen ordonné en vertu de l'article 76;	



- (b) an advocate who is meeting with a person in accordance with this Act, or is seeking to do so.

Penalty

(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$5,000.

Exception

(3) Subsection (1) does not apply to the person who is the subject of the order for examination or with whom the advocate is meeting or seeking to meet.

Offence:  
restraining  
order

(4) A person who contravenes a restraining order made under subsection 77 (1) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$5,000.

Offence:  
false state-  
ment

(5) No person shall, in a statement made in a prescribed form, assert something that he or she knows to be untrue or profess an opinion that he or she does not hold.

Penalty

(6) A person who contravenes subsection (5) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$10,000.

Regulations

**83.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms;
- (b) prescribing a fee scale for the compensation of guardians of property, including annual percentage charges on revenue and on capital;
- (c) designating classes of persons, including persons who have successfully completed prescribed courses of training, as being qualified to do assessments of capacity;
- (d) prescribing courses of training for assessors.

Commence-  
ment

**84.** This Act comes into force on the day the *Advocacy Act, 1991* comes into force.

Short title

**85.** The short title of this Act is the *Substitute Decisions Act, 1991*.

- b) un intervenant qui rencontre ou cherche à rencontrer une personne conformément à la présente loi.

Peine

(2) Quiconque contrevient au paragraphe (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Exception

(3) Le paragraphe (1) ne s'applique pas à la personne qui fait l'objet de l'ordonnance d'examen ou que l'intervenant rencontre ou cherche à rencontrer.

Infraction :  
ordonnance  
de ne pas  
faire

(4) Quiconque contrevient à une ordonnance de ne pas faire rendue en vertu du paragraphe 77 (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Infraction :  
fausse déclara-  
tion

(5) Nul ne doit, dans une déclaration faite selon une formule prescrite, affirmer quelque chose qu'il sait être faux ni professer une opinion qui n'est pas la sienne.

Peine

(6) Quiconque contrevient au paragraphe (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Règlements

**83** Le lieutenant-gouverneur en conseil peut, par règlement :

- a) prescrire des formules;
- b) prescrire un barème d'honoraires pour la rémunération des tuteurs aux biens, y compris des frais annuels, exprimés en pourcentage, prélevés sur les revenus et le capital;
- c) désigner des catégories de personnes, y compris de personnes qui ont réussi les cours de formation prescrits, comme ayant les qualités requises pour faire des évaluations de capacité;
- d) prescrire des cours de formation pour les évaluateurs.

Entrée en  
vigueur

**84** La présente loi entre en vigueur le jour où la *Loi de 1991 sur l'intervention* entre en vigueur.

Titre abrégé

**85** Le titre abrégé de la présente loi est *Loi de 1991 sur la prise de décisions au nom d'autrui*.

Bill 109

Government Bill

Projet de loi 109

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 109

**An Act respecting  
Consent to Treatment**

**The Hon. F. Lankin**  
Minister of Health

1st Reading     May 27th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 109

**Loi concernant le consentement au  
traitement**

**L'honorable F. Lankin**  
Ministre de la Santé

1<sup>re</sup> lecture     27 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTES

The proposed Act deals comprehensively with consent to treatment (broadly defined as anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose) administered by health practitioners. Some of its features are:

1. The Act applies to health practitioners who are licensed or registered under the statutes listed in the schedule. The Lieutenant Governor in Council may make regulations adding other categories of persons to the definition of "health practitioner".
2. The requirement for consent and the elements of consent are codified. (Sections 4 and 5)
3. Capacity is not a global concept but related to the particular treatment that is proposed. Persons aged sixteen and over are presumed to be capable, and younger persons are presumed to be incapable; both presumptions may be rebutted. Health practitioners will determine capacity in accordance with prescribed criteria, standards and procedures. (Sections 6 to 9)
4. When a health practitioner finds that a person is incapable, an advocate under the *Advocacy Act, 1991* meets with the person to explain the effect of the finding and the person's rights. (Section 10)
5. The principles to be followed by a person who acts on behalf of an incapable person are set out. Instructions contained in a power of attorney for personal care under the *Substitute Decisions Act, 1991* must be followed, unless they are overridden by more recent wishes. In the absence of instructions or wishes, the decision is made in the person's best interests. (Sections 13 and 14)
6. The Act does not authorize health practitioners to perform the following procedures on incapable persons: research procedures, non-therapeutic sterilization and the removal of tissue for transplants. (Section 15)
7. The Act gives a list of persons who may be entitled to act on behalf of an incapable person and a set of rules for determining who is so entitled, based on existing provisions of the *Mental Health Act*. (Sections 16 to 18)
8. Provision is made for emergency treatment without consent if an incapable person is otherwise likely to suffer serious bodily harm. However, a health practitioner who is aware that the person would not want the treatment is not permitted to administer it. (Sections 22 and 23)
9. The Consent and Capacity Review Board (established by section 32) is given power to review findings of incapacity, appoint representatives for incapable persons and give directions with respect to instructions and wishes that are not clear. The Board is also given power to authorize the person who acts on behalf of an incapable person to override his or her instructions and wishes, but only if significantly better treatment has become available and the Board is satisfied that the incapable person would probably consent if capable. (Sections 26 to 30)
10. The organization of the Board and its hearings are dealt with in detail. (Sections 32 to 40)

## NOTES EXPLICATIVES

La Loi proposée traite de tous les aspects du consentement au traitement (défini largement comme toute chose qui est faite dans un but thérapeutique, préventif, palliatif, diagnostique ou esthétique, ou dans un autre but relié au domaine de la santé) administré par les praticiens de la santé. Voici quelques caractéristiques de la Loi :

1. La Loi s'applique aux praticiens de la santé qui sont titulaires d'un permis ou qui sont inscrits ou autorisés en vertu des lois mentionnées à l'annexe. Le lieutenant-gouverneur en conseil peut, par règlement, ajouter d'autres catégories de personnes à la définition de «praticien de la santé».
2. L'exigence selon laquelle il faut obtenir un consentement et les éléments formant le consentement sont codifiés. (Articles 4 et 5)
3. La capacité n'est pas un concept global, mais est rattachée au traitement particulier qui est envisagé. Les personnes âgées de seize ans et plus sont présumées capables, et les personnes plus jeunes sont présumées incapables. Les deux présomptions sont réfutables. Les praticiens de la santé évaluent la capacité conformément aux critères, aux normes et à la procédure qui sont prescrits. (Articles 6 à 9)
4. Lorsqu'un praticien de la santé constate qu'une personne est incapable, un intervenant visé par la *Loi de 1991 sur l'intervention* rencontre la personne, et lui explique l'effet de la constatation d'incapacité et l'informe de ses droits. (Article 10)
5. Les principes que doit respecter la personne qui agit au nom de l'incapable sont énumérés. Les instructions que contient une procuration relative au soin de la personne visée par la *Loi de 1991 sur la prise de décisions au nom d'autrui* doivent être suivies, à moins que des désirs plus récents ne l'emportent. En l'absence d'instructions ou de désirs, la décision est prise dans l'intérêt véritable de l'incapable. (Articles 13 et 14)
6. La Loi n'autorise pas les praticiens de la santé à accomplir les actes suivants sur les incapables : les actes de recherche, une stérilisation non thérapeutique et l'enlèvement de tissus à des fins de transplantation. (Article 15)
7. La Loi énumère les personnes qui peuvent avoir le droit d'agir au nom d'un incapable et un ensemble de règles pour déterminer à qui appartient ce droit, en se fondant sur les dispositions actuelles de la *Loi sur la santé mentale*. (Articles 16 à 18)
8. Le traitement d'urgence sans consentement est permis si un incapable risquerait autrement de subir un préjudice physique grave. Toutefois, il n'est pas permis au praticien de la santé qui sait que l'incapable ne voudrait pas le traitement de l'administrer. (Articles 22 et 23)
9. Il est donné à la Commission de révision du consentement et de la capacité (créée par l'article 32) le pouvoir de réviser les constatations d'incapacité, de nommer des représentants pour les incapables et de donner des directives en ce qui concerne des instructions et des désirs qui ne sont pas clairs. La Commission a également le pouvoir de permettre à la personne qui agit au nom d'un incapable de déroger aux instructions et aux désirs de celui-ci, mais seulement si un traitement considérablement meilleur est devenu possible et que la Commission est convaincue que l'incapable donnerait probablement son consentement s'il était capable. (Articles 26 à 30)
10. Il est traité de tous les aspects de l'organisation de la Commission et des audiences qu'elle tient. (Articles 32 à 40)



11. Appeals from the Board's decisions may be made to the Ontario Court (General Division), which has power to authorize treatment pending the appeal in certain circumstances. (Sections 41 and 42)
12. It is an offence to obstruct an advocate, or to make a false statement about one's entitlement to act on behalf of an incapable person or about an incapable person's instructions or wishes. (Sections 43 and 44)

11. Les décisions de la Commission peuvent être portées en appel à la Cour de l'Ontario (Division générale). Ce tribunal a le pouvoir d'autoriser qu'un traitement soit administré en attendant l'issue de l'appel dans certaines circonstances. (Articles 41 et 42)
12. Est coupable d'une infraction quiconque entrave un intervenant, ou fait une fausse déclaration au sujet de son droit d'agir au nom d'un incapable, ou au sujet des instructions ou des désirs d'un incapable. (Articles 43 et 44)





## An Act respecting Consent to Treatment

## Loi concernant le consentement au traitement

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24. Praticien de la santé
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### REQUÊTES À LA COMMISSION

26. Requête en révision d'une constatation d'incapacité
27. Requête en nomination d'un représentant
28. Requête en vue d'obtenir des directives
29. Requête en vue d'obtenir la permission de déroger aux instructions ou désirs

## 31. Counsel for incapable person

CONSENT AND CAPACITY REVIEW  
BOARD

- 32. Consent and Capacity Review Board
- 33. Chair and vice-chairs
- 34. Staff
- 35. Panels and quorum
- 36. Hearing and decision
- 37. Examination of evidence
- 38. Communication re subject-matter of hearing
- 39. Release of documentary evidence
- 40. Disqualification
- 41. Appeal
- 42. Order authorizing treatment pending appeal

## MISCELLANEOUS

- 43. Offence: obstruction of advocate
- 44. Offence: false statements
- 45. Regulations
- 46. Transition
- 47. Commencement
- 48. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** In this Act,

“advocate” means a person who works as an advocate, whether on a paid or voluntary basis, for the Advocacy Commission or in a community program operated under the *Advocacy Act, 1991*; (“*intervenant*”)

“Board” means the Consent and Capacity Review Board established by subsection 32 (1); (“*Commission*”)

“capable” means mentally capable, and “capacity” has a corresponding meaning; (“*capable*”, “*capacité*”)

“court” means the Ontario Court (General Division); (“*tribunal*”)

“health practitioner” means,

- (a) a person who is registered or licensed under a statute listed in the schedule, or
- (b) a person who is a member of a prescribed category; (“*praticien de la santé*”)

“hospital” means an institution as defined in the *Mental Hospitals Act*, a private hospital as defined in the *Private Hospitals Act* or a hospital as defined in the *Public Hospitals Act*; (“*hôpital*”)

“incapable” means mentally incapable, and “incapacity” has a corresponding meaning; (“*incapable*”, “*incapacité*”)

## 30. Intervenant

## 31. Avocat représentant l'incapable

COMMISSION DE RÉVISION DU CONSEN-  
TEMENT ET DE LA CAPACITÉ

- 32. Commission de révision du consentement et de la capacité
- 33. Président et vice-présidents
- 34. Personnel
- 35. Comités et quorum
- 36. Audience et décision
- 37. Examen de la preuve
- 38. Communication concernant l'affaire en litige
- 39. Remise de la preuve documentaire
- 40. Interdiction
- 41. Appel
- 42. Ordonnance autorisant le traitement en attendant l'issue de l'appel

## DISPOSITIONS DIVERSES

- 43. Infraction : entrave
- 44. Infraction : fausses déclarations
- 45. Règlements
- 46. Dispositions transitoires
- 47. Entrée en vigueur
- 48. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 (1)** Les définitions qui suivent s'appliquent à la présente loi.

«capable» Mentalement capable. Le substantif «capacité» a un sens correspondant. («*capable*», «*capacity*»)

«Commission» La Commission de révision du consentement et de la capacité que crée le paragraphe 32 (1). («*Board*»)

«conjoint» Personne du sexe opposé avec laquelle :

- a) la personne est mariée,
- b) la personne vit dans une union conjugale hors du mariage, si les deux personnes, selon le cas :
  - (i) ont cohabité pendant au moins un an,
  - (ii) sont les parents du même enfant,
  - (iii) ont conclu un accord de cohabitation en vertu de l'article 53 de la *Loi de 1986 sur le droit de la famille*. («*spouse*»)

«établissement psychiatrique» S'entend au sens de la loi intitulée *Mental Health Act* («*Loi sur la santé mentale*»). («*psychiatric facility*»)

«hôpital» Établissement au sens de la loi intitulée *Mental Hospitals Act* («*Loi sur les hôpitaux psychiatriques*»), hôpital privé au sens de la loi intitulée *Private Hospitals Act* («*Loi sur les hôpitaux privés*») ou

Definitions

Définitions

“prescribed” means prescribed by the regulations made under this Act; (“prescrit”)

“psychiatric facility” has the same meaning as in the *Mental Health Act*; (“établissement psychiatrique”)

“spouse” means a person of the opposite sex,

- (a) to whom the person is married, or
- (b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
  - (i) have cohabited for at least one year,
  - (ii) are together the parents of a child, or
  - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act, 1986*; (“conjoint”)

“treatment” means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic or other health-related purpose, and includes a course of treatment. (“traitement”)

hôpital au sens de la loi intitulée *Public Hospitals Act* («*Loi sur les hôpitaux publics*»).(«hospital»)

«incapable» Mentalement incapable. Les substantifs «incapable» et «incapacité» ont un sens correspondant. («incapable», «incapacity»)

«intervenant» Personne qui travaille, contre rémunération ou à titre bénévole, comme intervenant pour la Commission d'intervention ou dans le cadre d'un programme communautaire offert aux termes de la *Loi de 1991 sur l'intervention*. («advocate»)

«praticien de la santé» S'entend, selon le cas :

- a) d'une personne qui est inscrite, autorisée ou titulaire d'un permis en vertu d'une loi mentionnée à l'annexe,
- b) d'une personne qui est membre d'une catégorie prescrite. («health practitioner»)

«prescrit» Prescrit par les règlements pris en application de la présente loi. («prescribed»)

«traitement» Toute chose qui est faite dans un but thérapeutique, préventif, palliatif, diagnostique ou esthétique, ou dans un autre but relié au domaine de la santé, y compris une cure. («treatment»)

«tribunal» La Cour de l'Ontario (Division générale). («court»)

Partners

(2) Two persons are partners for the purpose of this Act if they have lived together for at least one year and have a close personal relationship that others recognize is of primary importance in both persons' lives.

Partenaires

(2) Deux personnes sont partenaires pour l'application de la présente loi si elles vivent ensemble depuis au moins un an et qu'elles ont des rapports personnels étroits que des tiers reconnaissent comme étant d'une importance capitale dans la vie des deux personnes.

Application of Act

**2.** This Act applies in respect of treatment administered by health practitioners.

Application de la Loi

**2** La présente loi s'applique à l'égard des traitements administrés par les praticiens de la santé.

Restraint

**3.** This Act does not affect the common law duty of caregivers to restrain or confine persons, in emergencies, as may be necessary to prevent serious bodily harm to them or to others.

Personne maîtrisée

**3** La présente loi n'a pas d'incidence sur le devoir de common law qu'ont les fournisseurs de soins de maîtriser ou de confiner des personnes, au besoin et dans les cas d'urgence, pour éviter qu'elles subissent ou qu'elles causent à autrui un préjudice physique grave.

## CONSENT

No treatment without consent

**4.** No health practitioner shall administer treatment to a person unless,

- (a) he or she is of the opinion that the person is capable with respect to the treatment, and the person has given consent; or

## CONSENTEMENT

**4** Aucun praticien de la santé ne doit administrer de traitement à une personne à moins, selon le cas :

Aucun traitement sans consentement

- a) qu'il ne soit d'avis que la personne est capable à l'égard du traitement, et que la personne ait donné son consentement;



- (b) he or she is of the opinion that the person is incapable with respect to the treatment, and another person has given consent in accordance with this Act.

**5.—(1)** The following are the elements required for consent to treatment:

1. The consent must relate to the particular treatment.
2. The consent must be informed.
3. The consent must be given voluntarily.

(2) A consent is informed if the person, before giving it, received all the information about the treatment, alternative courses of action and the material effects, risks and side effects in each case that a reasonable person in the same circumstances would require in order to make a decision.

(3) Consent to treatment may be express or implied.

(4) If there is a prescribed form that applies to the treatment or to the circumstances, the form shall, if possible, be used.

(5) A consent that has been given may be withdrawn at any time,

- (a) by the person, if he or she is capable with respect to the treatment;
- (b) by the person who is entitled to give or refuse consent on the person's behalf, if he or she is incapable with respect to the treatment.

#### CAPACITY

**6.—(1)** A person who is capable with respect to a treatment is able to understand the information that is relevant to making a decision concerning the treatment and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision.

(2) A person may be capable with respect to some treatments and incapable with respect to others.

(3) A person may be incapable with respect to a treatment at one time and capable at another.

**7.—(1)** When a person becomes capable, in the health practitioner's opinion, with respect to a treatment, consent to which has already been given or refused by another person in accordance with this Act, the person's own decision to give or refuse consent to the treatment governs.

- b) qu'il ne soit d'avis que la personne est incapable à l'égard du traitement, et qu'une autre personne ait donné son consentement conformément à la présente loi.

**5 (1)** Les éléments suivants doivent coexister pour qu'il y ait consentement au traitement :

1. Le consentement doit porter sur le traitement visé.
2. Le consentement doit être éclairé.
3. Le consentement doit être donné volontairement.

(2) Un consentement est éclairé si la personne, avant de le donner, a reçu tous les renseignements concernant le traitement, les autres solutions possibles ainsi que les effets, risques et effets secondaires importants, dans chaque cas, dont une personne raisonnable dans les mêmes circonstances aurait besoin pour prendre une décision.

(3) Le consentement au traitement peut être exprès ou implicite.

(4) S'il existe une formule prescrite qui s'applique au traitement ou aux circonstances, la formule est utilisée, si possible.

(5) Le consentement qui a été donné peut être retiré à n'importe quel moment :

- a) par la personne, si elle est capable à l'égard du traitement;
- b) par la personne qui a le droit de donner ou de refuser son consentement au nom de la personne, si celle-ci est incapable à l'égard du traitement.

#### CAPACITÉ

**6 (1)** Une personne est capable à l'égard d'un traitement si elle peut comprendre les renseignements qui sont pertinents à la prise d'une décision concernant le traitement et qu'elle peut évaluer les conséquences raisonnablement prévisibles d'une décision ou d'une absence de décision.

(2) Une personne peut être capable à l'égard de certains traitements, mais incapable à l'égard d'autres traitements.

(3) Une personne peut être incapable à l'égard d'un traitement à un moment donné, mais capable à un autre moment.

**7 (1)** Lorsque le praticien de la santé est d'avis qu'une personne est devenue capable à l'égard d'un traitement auquel une autre personne a déjà donné ou refusé son consentement conformément à la présente loi, la décision de la personne à l'effet de donner ou de refuser son consentement l'emporte.

Éléments du consentement

Consentement éclairé

Consentement exprès ou implicite

Formule

Retrait

Capacité à l'égard d'un traitement

Idem

Idem

Capacité retrouvée

Elements of consent

Informed consent

Express or implied

Form

Withdrawal

Capacity with respect to treatment

Idem

Idem

Return of capacity

Person with guardian or attorney

(2) Subsection (1) does not apply if the person has a guardian of the person appointed under the *Substitute Decisions Act, 1991* who has authority to consent to the treatment, or an attorney for personal care under a power of attorney that confers that authority and has been validated under that Act.

Presumption of capacity

**8.**—(1) A person who is sixteen years of age or more is presumed to be capable with respect to the treatment, but the presumption may be rebutted.

Presumption of incapacity

(2) A person who is less than sixteen years of age is presumed to be incapable with respect to the treatment, but the presumption may be rebutted.

Determination of capacity

**9.** In determining a person's capacity with respect to a treatment, a health practitioner shall apply the prescribed criteria and follow the prescribed standards and procedures.

Finding of incapacity

**10.**—(1) When a health practitioner finds that a person who is sixteen years of age or more is incapable with respect to a treatment, the health practitioner shall,

- (a) advise the person of the finding, unless the person is unconscious;
- (b) give the person a written notice (which may be in the prescribed form), unless the person is unconscious, indicating that the person is entitled to meet with an advocate and is entitled to make an application to the Board; and
- (c) notify an advocate of the finding.

Meeting with advocate

(2) Unless the person is unconscious, an advocate shall promptly meet with him or her and explain the effect of the finding of incapacity and the right to make an application to the Board.

Explanation

(3) The advocate's explanation is sufficient, even if the person does not understand it, if it is made to the best of the advocate's ability and in a manner that addresses the person's special needs.

Exception

(4) Subsection (2) does not apply if the person himself or herself refuses to meet with the advocate.

Assistance

(5) At the person's request, the advocate shall assist him or her in making an application to the Board and in obtaining legal services.

Treatment delayed

(6) Unless the person is unconscious, the health practitioner shall not administer the treatment until,

(2) Le paragraphe (1) ne s'applique pas si la personne a un tuteur à la personne nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui a le pouvoir de consentir au traitement, ou un procureur au soin de sa personne constitué en vertu d'une procuration qui lui confère ce pouvoir et qui a été validée en vertu de cette loi.

**8** (1) Une personne âgée de seize ans ou plus est présumée capable à l'égard du traitement, mais cette présomption est réfutable.

(2) Une personne âgée de moins de seize ans est présumée incapable à l'égard du traitement, mais cette présomption est réfutable.

**9** Lorsqu'il évalue la capacité d'une personne à l'égard d'un traitement, le praticien de la santé applique les critères prescrits et suit les normes et la procédure prescrites.

**10** (1) Lorsqu'il constate qu'une personne âgée de seize ans ou plus est incapable à l'égard d'un traitement, le praticien de la santé fait ce qui suit :

- a) il avise la personne de la constatation, à moins que celle-ci ne soit inconsciente;
- b) il donne un avis écrit (qui peut être rédigé selon la formule prescrite) à la personne, à moins que celle-ci ne soit inconsciente, lui faisant savoir qu'elle a le droit de rencontrer un intervenant et de présenter une requête à la Commission;
- c) il donne avis de la constatation à un intervenant.

(2) À moins que la personne ne soit inconsciente, l'intervenant la rencontre promptement, et il lui explique l'effet de la constatation d'incapacité et l'informe de son droit de présenter une requête à la Commission.

(3) L'explication de l'intervenant est suffisante, même si la personne ne la comprend pas, si l'intervenant explique la question de son mieux et de façon à tenir compte des besoins particuliers de la personne.

(4) Le paragraphe (2) ne s'applique pas si la personne elle-même refuse de rencontrer l'intervenant.

(5) Lorsque la personne le lui demande, l'intervenant l'aide à présenter une requête à la Commission et à obtenir des services juridiques.

(6) À moins que la personne ne soit inconsciente, le praticien de la santé ne doit pas administrer le traitement tant que l'un des événements suivants n'est pas survenu :

Personne ayant un tuteur ou un procureur

Présomption de capacité

Présomption d'incapacité

Évaluation de la capacité

Constatation d'incapacité

Rencontre avec l'intervenant

Explication

Exception

Aide

Traitement retardé



- (a) the advocate informs him or her, orally or in writing, that the person has received the explanation and has not indicated a wish to make an application to the Board;
- (b) the advocate informs the health practitioner, orally or in writing, that the person himself or herself has refused to meet with the advocate; or
- (c) the Board gives a decision in the matter and,
  - (i) the appeal period elapses without an appeal being commenced, or
  - (ii) an appeal of the Board's decision is finally disposed of.

- a) l'intervenant l'avise, oralement ou par écrit, que la personne a reçu l'explication et qu'elle n'a pas manifesté le désir de présenter une requête à la Commission;
- b) l'intervenant l'avise, oralement ou par écrit, que la personne elle-même a refusé de rencontrer l'intervenant;
- c) la Commission rend une décision sur la question et une des situations suivantes se présente :
  - (i) la période d'appel s'écoule sans qu'il ne soit interjeté d'appel,
  - (ii) l'appel de la décision de la Commission est réglé de façon définitive.

Person under sixteen

(7) This section also applies if the person is less than sixteen years of age and has demonstrated a wish to give or refuse consent to the treatment on his or her own behalf.

Personne âgée de moins de seize ans

Notice to P.G.T.

**11.—**(1) A health practitioner who finds that a person who is sixteen years of age or more is incapable with respect to a treatment and who is of the opinion that the person may need decisions with respect to treatment to be made on his or her behalf on an ongoing basis may notify the Public Guardian and Trustee of the matter, using the prescribed form.

Avis au T.C.P.

Obligatory notice

(2) The notice is obligatory if the health professional is of the opinion that the incapacity has lasted for at least six months and is likely to continue.

Avis obligatoire

Copy

(3) The health practitioner shall give the incapable person a copy of the notice.

Copie

Person with guardian or attorney

**12.** Sections 10 and 11 do not apply if the person has a guardian of the person appointed under the *Substitute Decisions Act, 1991* who has authority to consent to the treatment, or an attorney for personal care under a power of attorney that confers that authority and has been validated under that Act.

Personne ayant un tuteur ou un procureur

#### INSTRUCTIONS AND WISHES WITH RESPECT TO TREATMENT

Instructions with respect to treatment

**13.—**(1) Instructions with respect to treatment that are contained in a power of attorney for personal care given under the *Substitute Decisions Act, 1991* that authorizes the attorney to give or refuse consent to treatment on the grantor's behalf are valid even if the power of attorney has not been validated under that Act, and remain valid even if the power of attorney is terminated by the appointment of a guardian of the person for the grantor under the *Substitute Deci-*

(7) Le présent article s'applique également si la personne est âgée de moins de seize ans et qu'elle a manifesté le désir de donner ou de refuser son consentement au traitement en son propre nom.

**11** (1) Le praticien de la santé qui constate qu'une personne âgée de seize ans ou plus est incapable à l'égard d'un traitement et qui est d'avis que cette personne peut avoir besoin que des décisions soient prises en son nom à l'égard du traitement de façon continue peut en donner avis au Tuteur et curateur public, en utilisant la formule prescrite.

Avis au T.C.P.

(2) L'avis est obligatoire si le praticien de la santé est d'avis que l'incapacité dure depuis au moins six mois et qu'elle continuera vraisemblablement.

Avis obligatoire

(3) Le praticien de la santé donne une copie de l'avis à l'incapable.

Copie

**12** Les articles 10 et 11 ne s'appliquent pas si la personne a un tuteur à la personne nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui a le pouvoir de consentir au traitement, ou un procureur au soin de sa personne constitué en vertu d'une procuration qui lui confère ce pouvoir et qui a été validée en vertu de cette loi.

Personne ayant un tuteur ou un procureur

#### INSTRUCTIONS ET DÉSIRS CONCERNANT LE TRAITEMENT

**13** (1) Les instructions concernant le traitement qui sont contenues dans une procuration relative au soin de la personne donnée en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui autorise le procureur à donner ou à refuser son consentement au traitement au nom du mandant sont valables même si la procuration n'a pas été validée en vertu de cette loi, et demeurent valables même s'il est mis fin à la procuration par la nomination d'un tuteur à la personne

Instructions concernant le traitement

*sions Act, 1991* or by the attorney's death, incapacity or resignation.

Wishes

(2) Wishes with respect to treatment that a person expresses, orally or in writing, while capable, override earlier instructions with respect to treatment that are contained in a power of attorney.

Idem

(3) Wishes with respect to treatment that a person expresses, orally or in writing, while capable, also override earlier wishes.

Form

(4) Wishes with respect to treatment may be written in the prescribed form.

Principles

#### CONSENT ON INCAPABLE PERSON'S BEHALF

**14.—**(1) A person who gives or refuses consent on an incapable person's behalf shall do so in accordance with the following principles:

1. If the person knows that the incapable person has a power of attorney for personal care given under the *Substitute Decisions Act, 1991* that contains instructions applicable to the circumstances, they must be followed, subject to paragraph 3.
2. If the person does not know of any such instructions, he or she shall act in accordance with any wishes applicable to the circumstances that he or she knows the incapable person expressed, orally or in writing, when capable, and believes the incapable person would still act on if capable.
3. If the person knows of wishes applicable to the circumstances that the incapable person expressed, orally or in writing, when capable, and believes the incapable person would still act on them if capable, and if the wishes are more recent than the instructions contained in a power of attorney for personal care, the wishes must be followed.
4. If the person does not know of any such instructions or wishes, he or she shall act in the incapable person's best interests.

Best interests

(2) In deciding what an incapable person's best interests are, the person who gives or refuses consent on his or her behalf shall take into consideration,

- (a) the values and beliefs that the person knows the incapable person held when

du mandant en vertu de la *Loi sur la prise de décisions au nom d'autrui*, ou par le décès, l'incapacité ou la démission du procureur.

Désirs

(2) Les désirs concernant le traitement qu'une personne exprime, oralement ou par écrit, lorsqu'elle est capable l'emportent sur les instructions concernant le traitement qui sont contenues dans une procuration et qui sont moins récentes.

Idem

(3) Les désirs concernant le traitement qu'une personne exprime, oralement ou par écrit, lorsqu'elle est capable l'emportent également sur les désirs qu'elle a exprimés précédemment.

Formule

(4) Les désirs concernant un traitement peuvent être rédigés selon la formule prescrite.

#### CONSENTEMENT AU NOM DE L'INCAPABLE

**14** (1) La personne qui donne ou refuse son consentement au nom d'un incapable le fait conformément aux principes suivants :

Principes

1. Si la personne sait que l'incapable a donné une procuration relative au soin de sa personne en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui contient des instructions qui s'appliquent aux circonstances, elle doit les suivre, sous réserve de la disposition 3.
2. Si la personne ignore l'existence de telles instructions, elle agit conformément aux désirs qu'elle sait que l'incapable a exprimés, oralement ou par écrit, lorsqu'il était capable et auxquels elle croit qu'il donnerait suite s'il était capable, et qui s'appliquent aux circonstances.
3. Si la personne sait que l'incapable, lorsqu'il était capable, a exprimé, oralement ou par écrit, des désirs qui s'appliquent aux circonstances, qu'elle croit que l'incapable donnerait suite à ces désirs s'il était capable et que ces désirs sont plus récents que les instructions contenues dans une procuration relative au soin de la personne, la personne doit les respecter.
4. Si la personne ignore l'existence de telles instructions ou de tels désirs, elle agit dans l'intérêt véritable de l'incapable.

Intérêt véritable

(2) Lorsqu'elle décide de ce qui est dans l'intérêt véritable de l'incapable, la personne qui donne ou refuse son consentement au nom de celui-ci tient compte :

- a) des valeurs et des croyances qu'elle sait que l'incapable avait lorsqu'il était



capable and believes he or she would still act on if capable;

(b) the incapable person's current wishes, if they can be ascertained; and

(c) the following factors:

1. Whether the incapable person's condition or well-being is likely to be improved by the treatment.
2. Whether the person's condition or well-being is likely to improve without the treatment.
3. Whether the benefit the person is expected to obtain from the treatment outweighs the risk of harm to him or her.
4. Whether a less restrictive or less intrusive treatment would be as beneficial as the treatment that is proposed.

Excluded matters

**15.** Nothing in this Act authorizes a health practitioner to perform any of the following procedures on a person who is incapable with respect to the procedure:

1. A procedure whose primary purpose is research.
2. Sterilization that is not medically necessary for the protection of the person's health.
3. The removal of regenerative or non-regenerative tissue for implantation in another person's body.

Consent on incapable person's behalf

**16.—(1)** If a health practitioner proposes to administer a treatment to a person who is, in his or her opinion, incapable with respect to the treatment, consent may be given or refused on the person's behalf by another person who is referred to in one of the following paragraphs:

1. The incapable person's guardian of the person appointed under the *Substitute Decisions Act, 1991*, if the guardian has authority to consent to the treatment, or his or her attorney for personal care under a power of attorney that confers that authority and has been validated under that Act.
2. The incapable person's attorney for personal care under a power of attorney that confers authority to consent to the treatment but has not been validated under the *Substitute Decisions Act*.
3. The incapable person's representative appointed by the Board under section 27 to give or refuse consent to the

capable et conformément auxquelles elle croit qu'il agirait s'il était capable;

b) des désirs courants de l'incapable, s'ils peuvent être établis;

c) des facteurs suivants :

1. Si le traitement améliorera vraisemblablement l'état ou le bien-être de l'incapable.
2. Si l'état ou le bien-être de l'incapable s'améliorera vraisemblablement sans le traitement.
3. Si l'effet bénéfique prévu du traitement l'emporte sur le risque d'effets néfastes pour l'incapable.
4. Si un traitement moins contraignant et moins perturbateur aurait un effet aussi bénéfique que celui qui est envisagé.

Questions exclues

**15** La présente loi n'a pas pour effet d'autoriser un praticien de la santé à accomplir l'un des actes suivants sur une personne qui est incapable à l'égard de l'acte :

1. L'acte dont le but principal est la recherche.
2. La stérilisation qui n'est pas nécessaire, sur le plan médical, pour protéger la santé de la personne.
3. L'enlèvement d'un tissu régénératoire ou non régénératoire pour l'implanter dans le corps d'une autre personne.

Consentement au nom de l'incapable

**16 (1)** Si le praticien de la santé envisage d'administrer un traitement à une personne qui, selon lui, est incapable à l'égard du traitement, une autre personne visée à l'une des dispositions suivantes peut donner ou refuser son consentement au nom de l'incapable :

1. Le tuteur à la personne de l'incapable nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui*, si le tuteur a le pouvoir de consentir au traitement, ou le procureur au soin de sa personne constitué en vertu d'une procuration qui lui confère ce pouvoir et qui a été validée en vertu de cette loi.
2. Le procureur au soin de la personne de l'incapable constitué en vertu d'une procuration qui lui confère le pouvoir de consentir au traitement, mais qui n'a pas été validée en vertu de la *Loi sur la prise de décisions au nom d'autrui*.
3. Le représentant de l'incapable, nommé par la Commission en vertu de l'article 27 pour donner ou refuser son

treatment or to treatment of the kind that is proposed.

4. The incapable person's spouse or partner.
5. The incapable person's child.
6. The incapable person's parent, or, if the incapable person is less than sixteen years of age, a person who is lawfully entitled to give or refuse consent to treatment on his or her behalf.
7. The incapable person's brother or sister.
8. Any other relative of the incapable person.

Inquiry

(2) The health practitioner shall make reasonable inquiry as to the existence of persons referred to in the paragraphs of subsection (1) and shall determine, in accordance with this section, who is entitled to give or refuse consent.

Criteria

(3) Only a person who is at least sixteen years of age and is himself or herself capable with respect to the treatment may give or refuse consent on the incapable person's behalf.

Ranking

(4) If two or more persons who are referred to in different paragraphs of subsection (1) claim the authority to give or refuse consent, the claim of the one described in the earlier paragraph prevails.

Idem

(5) If a person described in one of the paragraphs of subsection (1) is available, a person described in a later paragraph may give or refuse consent only if the one described in the earlier paragraph is not willing to assume the responsibility for giving or refusing consent or is himself or herself incapable with respect to the treatment.

P.G.T.

(6) If no person described in any of the paragraphs of subsection (1) is available, capable with respect to the treatment, and willing to assume the responsibility for giving or refusing consent, the Public Guardian and Trustee may give or refuse consent.

Meaning of "available"

(7) For the purpose of subsections (5) and (6), a person is available if it is possible for the health practitioner, within a time that is reasonable in the circumstances, to communicate with him or her and obtain a consent or refusal.

Conflict

(8) If two or more persons referred to in the same paragraph of subsection (1) claim the authority to give or refuse consent and disagree about whether to give or refuse it, and if their claims would prevail over any

consentement au traitement ou au genre de traitement envisagé.

4. Le conjoint ou le partenaire de l'incapable.
5. L'enfant de l'incapable.
6. Le père ou la mère de l'incapable ou, si l'incapable est âgé de moins de seize ans, une personne qui a légitimement le droit de donner ou de refuser le consentement au traitement en son nom.
7. Le frère ou la soeur de l'incapable.
8. Tout autre parent de l'incapable.

Recherches

(2) Le praticien de la santé fait des recherches raisonnables sur l'existence des personnes visées aux dispositions du paragraphe (1) et établit, conformément au présent article, qui a le droit de donner ou de refuser son consentement.

Critères

(3) Seule une personne qui est âgée d'au moins seize ans et qui est elle-même capable à l'égard du traitement peut donner ou refuser son consentement au nom de l'incapable.

Préférence

(4) Si deux personnes ou plus visées à des dispositions différentes du paragraphe (1) revendiquent le pouvoir de donner ou de refuser leur consentement, la revendication de la personne visée à la disposition qui figure en premier l'emporte.

Idem

(5) Si une personne visée à l'une des dispositions du paragraphe (1) est disponible, une personne visée à une disposition qui figure après peut donner ou refuser son consentement seulement si celle visée à la disposition qui figure en premier ne veut pas assumer la responsabilité de donner ou de refuser son consentement, ou si elle est elle-même incapable à l'égard du traitement.

T.C.P.

(6) Si aucune des personnes visées aux dispositions du paragraphe (1) n'est disponible, n'est capable à l'égard du traitement, ni ne veut assumer la responsabilité de donner ou de refuser son consentement, le Tuteur et curateur public peut donner ou refuser le consentement.

Sens du terme «disponible»

(7) Pour l'application des paragraphes (5) et (6), une personne est disponible si le praticien de la santé est en mesure, dans un délai qui est raisonnable dans les circonstances, de communiquer avec elle et d'obtenir son consentement ou son refus.

Conflit

(8) Si deux personnes ou plus visées à la même disposition du paragraphe (1) revendiquent le pouvoir de donner ou de refuser leur consentement, qu'elles ne s'accordent pas quant au fait de le donner ou de le refu-



others, the Public Guardian and Trustee may give or refuse consent.

Duty of  
P.G.T.

(9) In the circumstances described in subsections (6) and (8), the Public Guardian and Trustee is required to make the decision to give or refuse consent.

Statement by  
family  
member

**17.** A person referred to in paragraph 4, 5, 6, 7 or 8 of subsection 16 (1) shall not give or refuse consent on the incapable person's behalf without first making a statement that,

- (a) identifies his or her relationship to the incapable person;
- (b) indicates that he or she has no reason to believe that the incapable person might object to him or her making the decision to give or refuse consent;
- (c) indicates that he or she has no reason to believe that another person referred to in the same paragraph or an earlier paragraph of subsection 16 (1) claims authority to give or refuse consent; and
- (d) indicates that he or she has been in personal contact with the incapable person during the preceding twelve months.

Information

**18.** A person who assumes responsibility for giving or refusing consent on the incapable person's behalf is entitled to receive all the information required for an informed consent as described in subsection 5 (2).

Admission to  
hospital or  
psychiatric  
facility

**19.**—(1) Authority to give or refuse consent to a treatment on an incapable person's behalf includes authority to consent to the person's admission to a hospital or psychiatric facility for the purpose of the treatment, subject to subsection (2).

Idem

(2) If the person is sixteen years of age or more and objects to being admitted to a hospital or psychiatric facility, only a guardian of the person appointed under the *Substitute Decisions Act, 1991* has authority, subject to clause 56 (4) (a) of that Act, to consent to his or her admission.

Application  
to appoint  
representa-  
tive, treat-  
ment  
delayed

**20.** If the incapable person indicates that he or she wishes to apply to the Board to appoint a representative to give or refuse consent to the treatment on his or her behalf, the health practitioner shall not administer the treatment until the Board has given a decision and,

ser, et que leurs revendications l'emporteraient sur toute autre, le Tuteur et curateur public peut donner ou refuser le consentement.

(9) Dans les circonstances décrites aux paragraphes (6) et (8), le Tuteur et curateur public est tenu de prendre la décision de donner ou de refuser le consentement.

Obligation du  
T.C.P.

**17** Une personne visée à la disposition 4, 5, 6, 7 ou 8 du paragraphe 16 (1) ne doit pas donner ni refuser son consentement au nom de l'incapable sans faire d'abord une déclaration indiquant :

Déclaration  
par un mem-  
bre de la  
famille

- a) la nature du lien entre elle et l'incapable;
- b) le fait qu'elle n'a aucune raison de croire que l'incapable pourrait s'opposer à ce qu'elle prenne la décision de donner ou de refuser son consentement;
- c) le fait qu'elle n'a aucune raison de croire qu'une autre personne visée à la même disposition ou à une disposition précédente du paragraphe 16 (1) revendique le pouvoir de donner ou de refuser son consentement;
- d) le fait qu'elle a été personnellement en contact avec l'incapable au cours des douze mois précédents.

**18** La personne qui assume la responsabilité de donner ou de refuser son consentement au nom de l'incapable a le droit de recevoir tous les renseignements qui sont nécessaires pour donner un consentement éclairé comme le prévoit le paragraphe 5 (2).

Renseigne-  
ments

**19** (1) Le pouvoir de donner ou de refuser le consentement à un traitement au nom d'un incapable comprend le pouvoir de consentir à ce que l'incapable soit admis dans un hôpital ou dans un établissement psychiatrique aux fins du traitement, sous réserve du paragraphe (2).

Admission  
dans un hôpi-  
tal ou dans  
un établisse-  
ment psychia-  
trique

(2) Si l'incapable est âgé de seize ans ou plus et qu'il s'oppose à son admission dans un hôpital ou dans un établissement psychiatrique, seul le tuteur à la personne de l'incapable nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* a le pouvoir, sous réserve de l'alinéa 56 (4) a) de cette loi, de consentir à son admission.

Idem

**20** Si l'incapable fait savoir qu'il désire demander à la Commission, par voie de requête, de nommer un représentant pour donner ou refuser le consentement au traitement en son nom, le praticien de la santé ne doit administrer le traitement que lorsque la Commission a rendu une décision et que, selon le cas :

Requête  
visant à nom-  
mer un  
représentant,  
traitement  
retardé

- (a) the appeal period elapses without an appeal being commenced; or
- (b) an appeal of the Board's decision is finally disposed of.

Transition,  
representa-  
tive

**21.**—(1) Despite the repeal of section 1b of the *Mental Health Act* by subsection 18 (7) of the *Consent and Capacity Statute Law Amendment Act, 1991*, this Act applies in respect of a representative whom a person appointed in accordance with section 1b of the *Mental Health Act* before the day this Act comes into force, as if the representative were the person's attorney for personal care under a power of attorney that has not been validated under the *Substitute Decisions Act, 1991*.

Limited  
authority

(2) The authority conferred by subsection (1) to give or refuse consent on the person's behalf is limited to treatment administered in a psychiatric facility.

Revocation

(3) The person may revoke the appointment in writing, if he or she is capable with respect to treatment administered in a psychiatric facility.

#### EMERGENCY TREATMENT OF INCAPABLE PERSONS

Emergency  
treatment  
without  
consent

**22.**—(1) Despite section 4, a health practitioner may administer treatment to a person without consent if, in his or her opinion,

- (a) the person is incapable with respect to the treatment;
- (b) the person is likely to suffer serious bodily harm within twelve hours if the treatment is not administered promptly; and
- (c) it is not reasonably possible to obtain a consent or refusal on the person's behalf, or the delay required to do so is likely to result in serious bodily harm to the person.

Idem,  
pending  
application

(2) Despite subsection 10 (6), when an application to the Board to review a finding of incapacity is intended or is pending, the health practitioner may administer the treatment to the person if,

- (a) the person who is entitled to give or refuse consent on the person's behalf if the finding of incapacity is confirmed gives consent; and
- (b) the health practitioner is of the opinion that the person is likely to suffer serious bodily harm within twelve

- a) la période d'appel s'écoule sans qu'il ne soit interjeté d'appel;
- b) l'appel de la décision de la Commission est réglé de façon définitive.

**21** (1) Malgré l'abrogation de l'article 1b de la *Loi sur la santé mentale* par le paragraphe 18 (7) de la *Loi de 1991 modifiant des lois en ce qui concerne le consentement et la capacité*, la présente loi s'applique à l'égard du représentant qu'une personne a nommé conformément à l'article 1b de la *Loi sur la santé mentale* avant l'entrée en vigueur de la présente loi, comme si le représentant était le procureur au soin de sa personne, constitué en vertu d'une procuration relative au soin de la personne qui n'a pas été validée en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui*.

Disposition  
transitoire,  
représentant

(2) Le pouvoir que confère le paragraphe (1) de donner ou de refuser le consentement au nom de l'incapable se limite au traitement administré dans un établissement psychiatrique.

Pouvoir limité

(3) La personne peut révoquer la nomination par écrit, si elle est capable à l'égard du traitement administré dans un établissement psychiatrique.

Révocation

#### TRAITEMENT D'URGENCE DES INCAPABLES

**22** (1) Malgré l'article 4, le praticien de la santé peut administrer un traitement à une personne sans avoir à obtenir de consentement s'il est d'avis que les conditions suivantes sont réunies :

Traitement  
d'urgence  
sans consen-  
tement, cri-  
tères

- a) la personne est incapable à l'égard du traitement;
- b) la personne subira vraisemblablement un préjudice physique grave dans les douze heures si le traitement n'est pas administré promptement;
- c) il n'est pas raisonnablement possible d'obtenir un consentement ou un refus au nom de la personne, ou le délai pour ce faire lui causera vraisemblablement un préjudice physique grave.

(2) Malgré le paragraphe 10 (6), lorsqu'une requête en révision d'une constatation d'incapacité est envisagée ou est en instance devant la Commission, le praticien de la santé peut administrer le traitement à la personne si les conditions suivantes sont réunies :

Idem, en  
attendant l'is-  
sue d'une  
requête

- a) la personne qui a le droit de donner ou de refuser son consentement au nom de l'incapable si la constatation d'incapacité est confirmée y consent;
- b) le praticien de la santé est d'avis que la personne subira vraisemblablement un préjudice physique grave dans les



hours if the treatment is not administered promptly.

douze heures si le traitement n'est pas administré promptement.

Idem

(3) Despite section 20, when an application to the Board to appoint a representative to give or refuse consent to treatment is intended or is pending, subsection (2) applies, with necessary modifications.

(3) Malgré l'article 20, lorsqu'une requête en nomination d'un représentant pour donner ou refuser le consentement est envisagée ou est en instance devant la Commission, le paragraphe (2) s'applique avec les adaptations nécessaires.

Idem

Record, notice to P.G.T.

(4) After administering treatment under subsection (1), (2) or (3), the health practitioner shall promptly note all the relevant information in the person's record and shall notify the Public Guardian and Trustee of the matter as soon as possible.

(4) Après avoir administré un traitement en vertu du paragraphe (1), (2) ou (3), le praticien de la santé consigne promptement tous les renseignements pertinents au dossier de la personne et en avise le Tuteur et curateur public aussitôt que possible.

Dossier, avis au T.C.P.

Continuing treatment

(5) Treatment under subsection (1), (2) or (3) may be continued for up to seventy-two hours.

(5) Le traitement visé au paragraphe (1), (2) ou (3) peut être continué pendant au plus soixante-douze heures.

Continuation du traitement

Search for authorized person

(6) When treatment is administered under subsection (1), the health practitioner shall ensure that efforts to find a person who is authorized to give or refuse consent on the person's behalf continue, and when the authorized person is found, his or her decision to give or refuse consent to the continuation of treatment governs.

(6) Lorsqu'un traitement est administré en vertu du paragraphe (1), le praticien de la santé doit veiller à ce que les efforts pour trouver une personne qui est autorisée à donner ou à refuser son consentement au nom de la personne se poursuivent. Lorsque la personne autorisée est trouvée, sa décision de consentir ou de refuser de consentir à ce que le traitement continue l'emporte.

Recherches pour trouver une personne autorisée

Return of capacity

(7) If the person becomes capable, in the health practitioner's opinion, with respect to treatment whose administration has begun under subsection (1), (2) or (3), the person's own decision to give or refuse consent to the continuation of treatment governs.

(7) Si le praticien de la santé est d'avis qu'une personne est devenue capable à l'égard d'un traitement qui a commencé à être administré en vertu du paragraphe (1), (2) ou (3), la décision de la personne de consentir ou de refuser de consentir à ce que le traitement continue l'emporte.

Capacité retrouvée

Person with guardian or attorney

(8) Subsection (7) does not apply if the person has a guardian of the person appointed under the *Substitute Decisions Act, 1991* who has authority to consent to the treatment, or an attorney for personal care under a power of attorney that confers that authority and has been validated under that Act.

(8) Le paragraphe (7) ne s'applique pas si la personne a un tuteur à la personne nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui a le pouvoir de consentir au traitement, ou un procureur au soin de sa personne constitué en vertu d'une procuration qui lui confère ce pouvoir et qui a été validée en vertu de cette loi.

Personne ayant un tuteur ou un procureur

Admission to hospital or psychiatric facility

(9) The authority to administer treatment under subsection (1), (2) or (3) includes authority to have the person admitted to a hospital or psychiatric facility for the purpose of the treatment.

(9) Le pouvoir d'administrer un traitement en vertu du paragraphe (1), (2) ou (3) comprend celui de faire admettre la personne dans un hôpital ou dans un établissement psychiatrique aux fins du traitement.

Admission dans un hôpital ou dans un établissement psychiatrique

Exception, contrary intention

**23.** The health practitioner shall not administer treatment under section 22 if,

**23** Le praticien de la santé ne doit pas administrer de traitement en vertu de l'article 22 si, selon le cas :

Exception, intention contraire

- (a) he or she has reasonable grounds to believe that the person has a power of attorney for personal care that contains instructions to refuse consent to treatment of the kind that is proposed under the circumstances that have arisen, and has no reasonable grounds to believe that the person subsequently expressed wishes that would override the instructions in accordance with subsection 13 (2); or

- a) il a des motifs raisonnables de croire que la personne a donné une procuration relative au soin de sa personne qui contient des instructions à l'effet de refuser le consentement au genre de traitement qui est envisagé dans les circonstances qui sont survenues, et il n'a aucun motif raisonnable de croire que la personne a par la suite exprimé des désirs qui l'emporteraient sur les

- (b) he or she has reasonable grounds to believe that the person, when capable, expressed a wish to refuse consent to treatment of the kind that is proposed under the circumstances that have arisen, and has no reasonable grounds to believe that the person expressed other wishes that would override the wish in accordance with subsection 13 (3).

#### PROTECTION FROM LIABILITY

Apparently valid consent

**24.—(1)** A health practitioner who administers treatment to a person with a consent the health practitioner believes, on reasonable grounds, to be sufficient for the purposes of this Act is not liable for administering it without consent.

Apparently valid refusal

(2) A health practitioner who refrains from administering treatment to a person because of a refusal that the health practitioner believes, on reasonable grounds, to be sufficient for the purposes of this Act is not liable for failure to administer the treatment.

Emergency treatment

(3) A health practitioner who administers treatment to a person or refrains from doing so in accordance with sections 22 and 23 is not liable for administering the treatment without consent or for failure to administer the treatment, as the case may be.

Failure to find proper person

(4) A health practitioner is not liable for failing to seek the consent of a person whom he or she did not find despite reasonable inquiry in accordance with subsection 16 (2).

Reliance on statement

(5) A health practitioner is entitled to rely on the accuracy of a statement made under section 17 (statement by family member), unless it is not reasonable to do so.

Person making decision on another's behalf

**25.** A person who gives or refuses consent to treatment on another person's behalf, acting in good faith and in accordance with this Act, is not liable for giving or refusing consent.

#### APPLICATIONS TO BOARD

Application for review of finding of incapacity

**26.—(1)** A person may apply to the Board for review of a health practitioner's finding that he or she is incapable with respect to a treatment.

Parties

- (2) The parties to the application are:
1. The person.

instructions conformément au paragraphe 13 (2);

- b) il a des motifs raisonnables de croire que la personne, lorsqu'elle était capable, a exprimé le désir de refuser son consentement au genre de traitement qui est envisagé dans les circonstances qui sont survenues, et il n'a aucun motif raisonnable de croire que la personne a par la suite exprimé d'autres désirs qui l'emporteraient conformément au paragraphe 13 (3).

#### IMMUNITÉ

**24** (1) Le praticien de la santé qui administre un traitement à une personne avec un consentement qu'il croit, en se fondant sur des motifs raisonnables, être suffisant aux fins de la présente loi ne peut être tenu responsable pour avoir administré le traitement sans consentement.

Consentement apparemment valide

(2) Le praticien de la santé qui s'abstient d'administrer un traitement à une personne en raison d'un refus qu'il croit, en se fondant sur des motifs raisonnables, être suffisant aux fins de la présente loi ne peut être tenu responsable pour ne pas avoir administré le traitement.

Refus apparemment valide

(3) Le praticien de la santé qui administre un traitement à une personne ou qui s'abstient de le faire, conformément aux articles 22 et 23, ne peut être tenu responsable pour avoir administré le traitement sans consentement ou pour ne pas avoir administré le traitement, selon le cas.

Traitement d'urgence

(4) Le praticien de la santé ne peut être tenu responsable pour ne pas avoir obtenu le consentement d'une personne qu'il n'a pas trouvée même après avoir fait des recherches raisonnables conformément au paragraphe 16 (2).

Omission de trouver une personne autorisée

(5) Le praticien de la santé a le droit de se fier à l'exactitude de la déclaration faite aux termes de l'article 17 (déclaration par un membre de la famille), à moins qu'il ne soit pas raisonnable de le faire.

Droit de se fier à la déclaration

**25** La personne qui donne ou refuse son consentement au nom d'autrui et qui agit de bonne foi et conformément à la présente loi ne peut être tenue responsable pour avoir donné ou refusé le consentement.

Personne prenant une décision au nom d'autrui

#### REQUÊTES À LA COMMISSION

**26** (1) Une personne peut, par voie de requête, demander à la Commission de réviser la constatation du praticien de la santé selon laquelle la personne est incapable à l'égard d'un traitement.

Requête en révision d'une constatation d'incapacité

- (2) Les parties à la requête sont :
1. La personne.

Parties



2. The health practitioner.

3. Any other person whom the Board specifies.

Power of Board

(3) The Board may confirm the health practitioner's finding or may determine that the person is capable with respect to the treatment, and in doing so may substitute its opinion for that of the health practitioner.

Restriction on repeated applications

(4) A person shall not make a new application within six months after the final disposition of an earlier application for review of a finding of incapacity with respect to the same or similar treatment unless the Board gives leave, in advance.

Idem

(5) The Board may consent to the new application if it is satisfied that there has been a material change in circumstances that justifies reconsideration of the person's capacity.

Exception

(6) This section does not apply if the person has a guardian of the person appointed under the *Substitute Decisions Act, 1991* who has authority to consent to the treatment, or an attorney for personal care under a power of attorney that confers that authority and has been validated under that Act.

Application for appointment of representative

**27.—(1)** A person who is sixteen years of age or more and who is incapable with respect to a treatment or a particular kind of treatment may apply to the Board to appoint a representative to give or refuse consent to the treatment.

Application by proposed representative

(2) A person who is sixteen years of age or more may apply to the Board to appoint him or her as the representative of a person who is incapable, with respect to a treatment or a particular kind of treatment, to give or refuse consent to the treatment.

Parties

(3) The following persons are parties to the application:

1. The person for whom it is proposed to appoint a representative.
2. The proposed representative named in the application.
3. The person who is entitled to give or refuse consent under section 16 if no representative is appointed.
4. Any other person whom the Board specifies.

Criteria

(4) The Board may appoint a representative for the incapable person if it is satisfied that the following conditions are met:

2. Le praticien de la santé.

3. Toute autre personne que précise la Commission.

Pouvoir de la Commission

(3) La Commission peut confirmer la constatation du praticien de la santé ou décider que la personne est capable à l'égard du traitement. Ce faisant, elle peut substituer son opinion à celle du praticien de la santé.

Limite quant aux requêtes répétées

(4) Une personne ne peut pas présenter de nouvelle requête dans les six mois qui suivent le règlement définitif d'une requête précédente en révision d'une constatation d'incapacité concernant le même traitement ou un traitement semblable, sauf si la Commission l'y autorise au préalable.

Idem

(5) La Commission peut consentir à la nouvelle requête si elle est convaincue qu'il est survenu un changement important dans les circonstances qui justifie la réévaluation de la capacité de la personne.

Exception

(6) Le présent article ne s'applique pas si la personne a un tuteur à la personne nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui a le pouvoir de consentir au traitement, ou un procureur au soin de sa personne constitué en vertu d'une procuration qui lui confère ce pouvoir et qui a été validée en vertu de cette loi.

Requête en nomination d'un représentant

**27 (1)** Une personne qui est âgée de seize ans ou plus et qui est incapable à l'égard d'un traitement ou d'un genre particulier de traitement peut, par voie de requête, demander à la Commission de lui nommer un représentant pour donner ou refuser le consentement au traitement.

Requête présentée par le représentant proposé

(2) Une personne âgée de seize ans ou plus peut, par voie de requête, demander à la Commission de la nommer comme représentant d'une personne qui est incapable à l'égard d'un traitement ou d'un genre particulier de traitement pour donner ou refuser le consentement au traitement.

Parties

(3) Les personnes suivantes sont parties à la requête :

1. L'incapable pour qui il est proposé de nommer un représentant.
2. Le représentant proposé, nommé dans la requête.
3. La personne qui a le droit de donner ou de refuser son consentement en vertu de l'article 16 si aucun représentant n'est nommé.
4. Toute autre personne que précise la Commission.

Critères

(4) La Commission peut nommer un représentant pour l'incapable si elle est convaincue que les conditions suivantes sont respectées :

1. The person agrees to the appointment.
2. The representative consents to the appointment, is at least sixteen years of age and is capable with respect to the treatment.
3. The appointment is in the person's best interests.

Conditions

(5) If the incapable person agrees, the Board may impose conditions on the appointment.

Appointment of different person

(6) If the incapable person agrees, the Board may appoint as representative a different person than the one named in the application.

Exception

(7) This section does not apply if the person has a guardian of the person appointed under the *Substitute Decisions Act, 1991* who has authority to consent to the treatment, or an attorney for personal care under a power of attorney given under that Act that confers that authority.

Application for directions

**28.—**(1) A person who has assumed the responsibility of giving or refusing consent on behalf of a person who is incapable with respect to a treatment may apply to the Board for directions if,

- (a) the incapable person has a power of attorney for personal care containing instructions with respect to treatment, but the instructions are not clear or their application to the circumstances is not clear;
- (b) the incapable person expressed wishes with respect to treatment, orally or in writing, while capable, but the wishes are not clear or their application to the circumstances is not clear;
- (c) the incapable person has a power of attorney containing instructions with respect to treatment and has more recently expressed wishes with respect to treatment, while capable, and it is not clear whether the wishes override the instructions and to what extent.

Parties

(2) The following persons are parties to the application:

1. The person seeking directions.
2. The incapable person.
3. The health practitioner who proposes to administer the treatment.
4. Any other person whom the Board specifies.

1. L'incapable approuve la nomination.

2. Le représentant consent à la nomination, est âgé d'au moins seize ans et est capable à l'égard du traitement.

3. La nomination est dans l'intérêt véritable de l'incapable.

(5) Si l'incapable donne son approbation, la Commission peut subordonner la nomination à des conditions. Conditions

(6) Si l'incapable donne son approbation, la Commission peut nommer comme représentant une personne différente de celle qui est nommée dans la requête. Nomination d'une personne différente

(7) Le présent article ne s'applique pas si la personne a un tuteur à la personne nommé en vertu de la *Loi de 1991 sur la prise de décisions au nom d'autrui* qui a le pouvoir de consentir au traitement, ou un procureur au soin de sa personne constitué en vertu d'une procuration donnée en vertu de cette loi qui lui confère ce pouvoir. Exception

**28** (1) La personne qui a assumé la responsabilité de donner ou de refuser son consentement au nom d'une personne qui est incapable à l'égard d'un traitement peut, par voie de requête, demander des directives à la Commission dans les cas suivants : Requête en vue d'obtenir des directives

a) l'incapable a donné une procuration relative au soin de sa personne qui contient des instructions en ce qui concerne le traitement, mais les instructions ne sont pas claires ou leur application aux circonstances n'est pas claire;

b) l'incapable a exprimé des désirs en ce qui concerne le traitement, que ce soit oralement ou par écrit, lorsqu'il était capable, mais les désirs ne sont pas clairs ou leur application aux circonstances n'est pas claire;

c) l'incapable a donné une procuration qui contient des instructions en ce qui concerne le traitement et a exprimé plus récemment, lorsqu'il était capable, des désirs en ce qui concerne le traitement, et il n'est pas clair si les désirs l'emportent sur les instructions, ni dans quelle mesure.

(2) Les personnes suivantes sont parties à la requête : Parties

1. La personne qui demande les directives.
2. L'incapable.
3. Le praticien de la santé qui a l'intention d'administrer le traitement.
4. Toute autre personne que précise la Commission.



Directions,  
applicable  
principles

(3) The Board may give directions to the applicant and, in doing so, shall apply the principles set out in section 14.

(3) La Commission peut donner des directives au requérant et, ce faisant, elle applique les principes énoncés à l'article 14.

Directives,  
principes  
applicables

Application  
for permis-  
sion to  
depart from  
instructions  
or wishes

**29.—**(1) A person who has assumed the responsibility of giving or refusing consent on behalf of a person who is incapable with respect to a treatment may apply to the Board for permission to give consent to the treatment as subsection (3) authorizes, despite instructions to refuse consent to treatment contained in a power of attorney, or despite wishes with respect to treatment that the incapable person expressed, orally or in writing, when capable.

**29** (1) La personne qui a assumé la responsabilité de donner ou de refuser son consentement au nom d'une personne qui est incapable à l'égard d'un traitement peut, par voie de requête, demander à la Commission la permission de consentir au traitement, comme le permet le paragraphe (3), malgré les instructions contenues dans la procuration à l'effet de refuser le consentement au traitement, ou malgré les désirs concernant le traitement que l'incapable a exprimés, oralement ou par écrit, lorsqu'il était capable.

Requête en  
vue d'obtenir  
la permission  
de déroger  
aux instruc-  
tions ou aux  
désirs

Parties

(2) The following persons are parties to the application:

1. The person seeking permission.
2. The incapable person.
3. The health practitioner who proposes to administer the treatment.
4. Any other person whom the Board specifies.

(2) Les personnes suivantes sont parties à la requête :

1. La personne qui demande la permission.
2. L'incapable.
3. Le praticien de la santé qui a l'intention d'administrer le traitement.
4. Toute autre personne que précise la Commission.

Parties

Permission,  
criteria

(3) The Board may give the applicant permission to consent to the treatment, despite the instructions or wishes, if it is satisfied that the incapable person would probably, if capable, give consent because the likely result of the treatment is significantly better than would have been the result of treatment that was available in comparable circumstances at the time the power of attorney was given or the wishes were expressed.

(3) La Commission peut permettre au requérant de consentir au traitement, malgré les instructions ou les désirs, si elle est convaincue que l'incapable, s'il était capable, donnerait probablement son consentement parce que le résultat vraisemblable du traitement est dans une grande mesure meilleur que ne l'aurait été le résultat du traitement qui était disponible dans des circonstances comparables au moment où la procuration a été donnée ou les désirs exprimés.

Permission,  
critères

Advocate

**30.—**(1) In an application under section 28 or 29, the applicant shall ensure that an advocate receives a copy of the notice of application and of any accompanying documents when they are served on the parties.

**30** (1) Dans le cas d'une requête présentée en vertu de l'article 28 ou 29, le requérant veille à ce que l'intervenant reçoive une copie de l'avis de requête et des documents qui y sont joints lorsqu'ils sont signifiés aux parties.

Intervenant

Meeting with  
advocate

(2) Unless the incapable person is unconscious, an advocate shall meet with him or her and shall explain the significance of the notice of application and the right to oppose the application.

(2) À moins que l'incapable ne soit inconscient, l'intervenant le rencontre, et il lui explique l'importance de l'avis de requête et l'informe de son droit de s'opposer à la requête.

Rencontre  
avec l'interven-  
nant

Explanation

(3) The advocate's explanation is sufficient, even if the incapable person does not understand it, if it is made to the best of the advocate's ability and in a manner that addresses the person's special needs.

(3) L'explication de l'intervenant est suffisante, même si l'incapable ne la comprend pas, si l'intervenant explique la question de son mieux et de façon à tenir compte des besoins particuliers de l'incapable.

Explication

Exception

(4) Subsection (2) does not apply if the person himself or herself refuses to meet with the advocate.

(4) Le paragraphe (2) ne s'applique pas si la personne elle-même refuse de rencontrer l'intervenant.

Exception

Assistance

(5) At the incapable person's request, the advocate shall assist him or her in obtaining legal services.

(5) Lorsque l'incapable le lui demande, l'intervenant l'aide à obtenir des services juridiques.

Aide

Counsel for  
incapable  
person

**31.—**(1) If a person who is or may be incapable with respect to a treatment is a party to a proceeding before the Board and does not have legal representation,

- (a) the Board may direct that the Public Guardian and Trustee arrange for legal representation to be provided for the person; and
- (b) the person shall be deemed to have capacity to retain and instruct counsel.

Responsi-  
bility for  
legal fees

(2) If legal representation is provided for a person in accordance with clause (1) (a) and no certificate is issued under the *Legal Aid Act* in connection with the proceeding, the person is responsible for the legal fees.

#### CONSENT AND CAPACITY REVIEW BOARD

Consent and  
Capacity  
Review  
Board

**32.—**(1) A board to be known as the Consent and Capacity Review Board in English and as Commission de révision du consentement et de la capacité in French is hereby established.

Composition

(2) The members of the Board shall be appointed by the Lieutenant Governor in Council.

Term and  
reappoint-  
ment

(3) The members of the Board shall hold office for three-year terms and may be reappointed.

Vacancies

(4) If a member's position becomes vacant, the Lieutenant Governor in Council may appoint a replacement to serve for the remainder of the member's term.

Remunera-  
tion and  
expenses

(5) The members of the Board shall be paid the remuneration fixed by the Lieutenant Governor in Council and the reasonable expenses incurred in the course of their duties under this Act.

Chair and  
vice-chairs

**33.—**(1) The Lieutenant Governor in Council shall designate one of the members of the Board as chair and one or more others as vice-chairs.

Role of  
chair

(2) The chair is the chief administrative officer of the Board and has power to make rules governing the procedure before it.

Role of vice-  
chair

(3) If the chair is unable to act as such for any reason, the vice-chair (if there are two or more vice-chairs, the one whom the chair designates to replace him or her or, in the absence of a designation, the one who was appointed to the Board first) shall act in the chair's place.

Idem

(4) A vice-chair also has the powers and duties that the chair delegates to him or her in writing.

**31** (1) Si une personne qui est ou peut être incapable à l'égard d'un traitement est partie à une instance devant la Commission et n'est pas représentée par un avocat :

- a) la Commission peut ordonner que le Tuteur et curateur public prenne des dispositions pour faire représenter la personne par un avocat;
- b) la personne est réputée capable de retenir les services d'un avocat et de le mandater.

Avocat  
représentant  
l'incapable

(2) Si une personne est représentée par un avocat conformément à l'alinéa (1) a) et qu'aucun certificat n'est délivré en vertu de la loi intitulée *Legal Aid Act* («*Loi sur l'aide juridique*») relativement à l'instance, les honoraires d'avocat sont à la charge de la personne.

Paiement des  
honoraires  
d'avocat

#### COMMISSION DE RÉVISION DU CONSENTEMENT ET DE LA CAPACITÉ

**32** (1) Est créée une commission nommée Commission de révision du consentement et de la capacité en français et Consent and Capacity Review Board en anglais.

Commission  
de révision  
du consente-  
ment et de la  
capacité

(2) Les membres de la Commission sont nommés par le lieutenant-gouverneur en conseil.

Composition

(3) Le mandat des membres de la Commission est de trois ans, et il peut être renouvelé.

Mandat et  
renouvelle-  
ment

(4) Si le poste d'un membre devient vacant, le lieutenant-gouverneur en conseil peut nommer un remplaçant qui termine le mandat du membre.

Vacance

(5) Les membres de la Commission reçoivent la rémunération que fixe le lieutenant-gouverneur en conseil et les frais normaux engagés dans l'exercice de leurs fonctions aux termes de la présente loi.

Rémunération  
et frais

**33** (1) Le lieutenant-gouverneur en conseil désigne parmi les membres de la Commission un président et un ou plusieurs vice-présidents.

Président et  
vice-prési-  
dents

(2) Le président est le directeur administratif de la Commission et a le pouvoir d'établir des règles qui régissent le déroulement des instances devant la Commission.

Rôle du pré-  
sident

(3) Si le président est empêché d'agir, pour quelque raison que ce soit, le vice-président (s'il y a deux vice-présidents ou plus, celui que le président désigne pour le remplacer ou, en l'absence de désignation, celui qui a été nommé à la Commission en premier) agit à sa place.

Rôle du vice-  
président

(4) Le vice-président a également les pouvoirs et les fonctions que le président lui délègue par écrit.

Idem



Staff	<b>34.</b> —(1) Such employees as are necessary for the proper conduct of the Board's work may be appointed under the <i>Public Service Act</i> .	<b>34</b> (1) Les employés nécessaires à la bonne conduite des affaires de la Commission peuvent être nommés en vertu de la loi intitulée <i>Public Service Act</i> (« <i>Loi sur la fonction publique</i> »).	Personnel
Government services and facilities	(2) The Board shall, if appropriate, use the services and facilities of a ministry or agency of the Government of Ontario.	(2) La Commission se prévaut, si cela est approprié, des services et installations des ministères ou organismes du gouvernement de l'Ontario.	Services et installations du gouvernement
Panels	<b>35.</b> —(1) The chair shall assign the other members to sit in panels of three or five members to deal with particular cases.	<b>35</b> (1) Le président désigne les autres membres pour siéger en comités de trois ou cinq membres afin de traiter de cas particuliers.	Comités
Chairs	(2) The chair shall choose a chair and vice-chair for each panel from among its members.	(2) Le président choisit parmi les membres de chaque comité un président et un vice-président.	Présidents
Expertise in evaluating capacity	(3) At least one of the members of a panel that is assigned to deal with a case involving capacity shall be a person with expertise in evaluating capacity.	(3) Au moins un des membres du comité désigné pour traiter d'un cas où il est question de la capacité d'une personne est une personne qui a la compétence pour évaluer la capacité.	Compétence pour évaluer la capacité
Quorum	(4) A majority of the members of a panel constitutes a quorum.	(4) La majorité des membres du comité constitue le quorum.	Quorum
Idem	(5) If the panel is assigned to deal with a case involving capacity, a member with expertise in evaluating capacity is required to make up the quorum.	(5) Si le comité est désigné pour traiter d'un cas où il est question de la capacité d'une personne, un membre qui a la compétence pour évaluer la capacité doit faire partie du comité pour que le quorum soit constitué.	Idem
Decision of panel is Board's decision	(6) The decision of a majority of the members of a panel is a decision of the Board.	(6) La décision de la majorité des membres du comité constitue la décision de la Commission.	La décision du comité est la décision de la Commission
Time and place for hearing	<b>36.</b> —(1) When the Board receives written notice of a proceeding, it shall promptly fix a time and place for a hearing and notify the parties of them.	<b>36</b> (1) Lorsque la Commission reçoit avis d'une instance par écrit, elle fixe promptement la date, l'heure et le lieu de l'audience, et en avise les parties.	Date, heure et lieu de l'audience
Seven-day period	(2) The hearing shall begin within seven days after the day the Board receives notice of the proceeding, unless the parties agree to a postponement.	(2) L'audience commence dans les sept jours qui suivent le jour où la Commission a reçu avis de l'instance, à moins que les parties ne consentent à un ajournement.	Période de sept jours
Decision and reasons	(3) The Board shall render its decision within one day after the end of the hearing and shall provide written reasons to the parties, and to the Public Guardian and Trustee, if he or she is not a party, within two days after rendering the decision.	(3) La Commission rend sa décision dans la journée qui suit la fin de l'audience et fournit les motifs de la décision par écrit aux parties, et au Tuteur et curateur public, s'il n'est pas partie à l'instance, dans les deux jours qui suivent celui où elle a rendu la décision.	Décision et motifs
Examination of evidence	<b>37.</b> —(1) Before the hearing, the parties shall be given an opportunity to examine and copy any documentary evidence that will be produced or any report whose contents will be given in evidence.	<b>37</b> (1) Avant l'audience, il est donné aux parties l'occasion d'examiner la preuve documentaire qui y sera produite et les rapports qui y seront présentés en preuve, et d'en faire des copies.	Examen de la preuve
Health record	(2) Subject to subsections 29 (6) and (7) of the <i>Mental Health Act</i> (withholding clinical record) and subsections 166a(2) to (6) of the <i>Child and Family Services Act, 1984</i> (withholding record of mental disorder), the following persons are entitled to examine and	(2) Sous réserve des paragraphes 29 (6) et (7) de la <i>Loi sur la santé mentale</i> (non-divulgaration de dossiers cliniques) et des paragraphes 166a (2) à (6) de la loi intitulée <i>Child and Family Services Act, 1984</i> (« <i>Loi de 1984 sur les services à l'enfance et à la</i>	Dossier de santé

to copy, at their own expense, any medical or other health record prepared in respect of a party:

1. If the party in respect of whom the record was prepared is at least sixteen years of age and capable, the party and his or her counsel or agent.
2. If the party in respect of whom the record was prepared is less than sixteen years of age or is incapable, the party's counsel or agent.

Idem

(3) Nothing in paragraph 2 of subsection (2) prevents the counsel or agent from disclosing the record to the party.

Communication re subject-matter of hearing

**38.**—(1) The members of the Board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any party, counsel, agent or other person, unless all the parties and their counsel or agents receive notice and have an opportunity to participate.

Exception

(2) However, the members of the Board conducting the hearing may seek advice from an adviser independent of the parties, and in that case the nature of the advice shall be communicated to them so that they may make submissions as to the law.

Only members at hearing to participate in decision

(3) No member of the Board shall participate in a decision unless he or she was present throughout the hearing and heard the parties' evidence and argument; except with the parties' consent, no decision shall be rendered unless all the members so present participate in it.

Release of documentary evidence

**39.**—(1) Within a reasonable time after the final disposition of the proceeding, documents and things put in evidence at the hearing shall, on request, be released to the person who produced them.

Return of clinical record

(2) If an original clinical record as defined in subsection 29 (1) of the *Mental Health Act* was put in evidence, it shall be returned to the psychiatric facility as soon as possible after the final disposition of the proceeding.

Disqualification

**40.**—(1) A member of the Board shall not take part in the hearing of a matter that concerns a person who is or was the member's patient or client.

Idem

(2) A member of the Board who is an officer or employee of a hospital or other health care or residential facility or has a direct financial interest in such a facility shall not take part in the hearing of a matter that con-

*famille*) (non-divulgaration de dossiers relatifs à un trouble mental), les personnes suivantes ont le droit d'examiner un dossier médical ou un autre dossier de santé constitué à l'égard d'une partie, et d'en faire des copies, à leurs propres frais :

1. Si la partie à l'égard de laquelle le dossier a été constitué est âgée d'au moins seize ans et est capable, la partie et son avocat ou mandataire.
2. Si la partie à l'égard de laquelle le dossier a été constitué est âgée de moins de seize ans et est incapable, son avocat ou mandataire.

(3) La disposition 2 du paragraphe (2) n'a pas pour effet d'empêcher l'avocat ou le mandataire de divulguer le dossier à la partie.

Idem

**38** (1) Les membres de la Commission qui tiennent une audience ne communiquent ni directement ni indirectement avec une partie, un avocat, un mandataire ou une autre personne, au sujet de l'objet de l'audience, sauf si toutes les parties et leurs avocats ou mandataires ont été avisés et ont l'occasion de participer.

Communication concernant l'affaire en litige

(2) Cependant, les membres de la Commission qui tiennent l'audience peuvent demander des conseils à un conseiller indépendant des parties, auquel cas la teneur des conseils leur est communiquée pour leur permettre de présenter des observations quant au droit applicable.

Exception

(3) Les membres de la Commission ne participent à la décision que s'ils ont assisté à toute l'audience et ont entendu la preuve et les plaidoiries des parties. Aucune décision n'est rendue sans la participation de tous ces membres, si ce n'est avec le consentement des parties.

Seuls les membres présents à l'audience participent aux décisions

**39** (1) Dans un délai raisonnable après le règlement définitif de l'instance, les documents et objets présentés en preuve à l'audience sont rendus sur demande à la personne qui les a produits.

Remise de la preuve documentaire

(2) Si l'original d'un dossier clinique, tel que le définit le paragraphe 29 (1) de la *Loi sur la santé mentale*, a été présenté en preuve, il est renvoyé à l'établissement psychiatrique aussitôt que possible après le règlement définitif de l'instance.

Remise du dossier clinique

**40** (1) Un membre de la Commission ne doit pas prendre part à une audience qui concerne une personne qui est ou a été son malade ou son client.

Interdiction

(2) Un membre de la Commission qui est un dirigeant ou un employé d'un hôpital, d'un établissement de santé ou d'un établissement résidentiel, ou qui a un intérêt financier direct dans un tel établissement ne doit

Idem



cerns a person who is or was a patient or resident of the facility.

**Appeal** **41.**—(1) A party to a proceeding before the Board may appeal the Board's decision to the court on a question of law or fact or both.

**Time for filing notice of appeal** (2) The appellant's notice of appeal shall be filed, with proof of service, within ten days after he or she receives the Board's written reasons for its decision.

**Notice to Board** (3) The appellant shall give a copy of the notice of appeal to the Board.

**Record** (4) The Board shall forthwith file with the court the transcript of the hearing and the documentary evidence considered by the Board, which together constitute the record in the appeal.

**Perfecting appeal** (5) The appeal shall be perfected within fourteen days after the appellant receives a copy of the record.

**Answer** (6) The respondent's answer shall be filed, with proof of service, within fourteen days after the appeal is perfected.

**Extension of time** (7) The court may extend the time for filing a notice of appeal, perfecting an appeal or filing an answer, even after the time has expired.

**Early date for appeal** (8) The court shall fix for the hearing of the appeal the earliest date that is compatible with its just disposition.

**Appeal on the record, exception** (9) The court shall hear the appeal on the record, but may receive new or additional evidence as it considers just.

**Powers of court on appeal** (10) On the appeal, the court may,  
(a) exercise all the powers of the Board;  
(b) substitute its opinion for that of a health practitioner or for that of the Board;  
(c) refer the matter back to the Board, with directions; for rehearing in whole or in part.

**Order authorizing treatment pending appeal** **42.**—(1) In the case of an appeal from a decision that would have the effect of authorizing a health practitioner to administer treatment, the treatment may be administered before the final disposition of the appeal, despite subsection 10 (6) or section 20, as the case may be, if the court so orders on a party's motion.

**Criteria** (2) The court may make the order only if it is satisfied that,

pas prendre part à une audience qui concerne une personne qui est ou a été le malade ou le client de l'établissement.

**41** (1) Une partie à une instance devant la Commission peut interjeter appel de sa décision auprès du tribunal sur une question de droit ou une question de fait, ou les deux.

(2) L'appellant dépose un avis d'appel ainsi qu'une preuve de signification dans les dix jours qui suivent le jour où il reçoit les motifs de la décision de la Commission par écrit.

(3) L'appellant donne une copie de l'avis d'appel à la Commission.

(4) La Commission dépose sans délai auprès du tribunal la transcription de l'audience et la preuve documentaire que la Commission a étudiée. Ce dossier constitue le dossier d'appel.

(5) L'appellant met l'appel en état dans les quatorze jours qui suivent le jour où il reçoit une copie du dossier.

(6) L'intimé dépose une réponse ainsi qu'une preuve de signification dans les quatorze jours qui suivent la mise en état de l'appel.

(7) Le tribunal peut proroger le délai pour déposer l'avis d'appel ou la réponse, ou pour mettre l'appel en état, même après l'expiration de ce délai.

(8) Le tribunal fixe l'audition de l'appel à la date la plus proche qui soit compatible avec un règlement juste de l'appel.

(9) Le tribunal entend l'appel d'après le dossier, mais il peut recevoir de nouvelles preuves ou des preuves additionnelles selon ce qu'il juge équitable.

(10) En appel, le tribunal peut :  
a) exercer tous les pouvoirs de la Commission;  
b) substituer son opinion à celle du praticien de la santé ou à celle de la Commission;  
c) renvoyer la question à la Commission, avec des directives, pour qu'elle l'entende à nouveau, en tout ou en partie.

**42** (1) En cas d'appel d'une décision qui autoriserait le praticien de la santé à administrer un traitement, le traitement peut être administré avant que l'appel ne soit réglé de façon définitive, malgré le paragraphe 10 (6) ou l'article 20, selon le cas, si le tribunal l'ordonne sur la motion d'une partie.

(2) Le tribunal ne peut rendre l'ordonnance que s'il est convaincu que les conditions suivantes sont réunies :

Appel

Délai pour déposer l'avis d'appel

Avis à la Commission

Dossier

Mise en état de l'appel

Réponse

Prorogation du délai

Date d'audition de l'appel

Appel entendu d'après le dossier, exception

Pouvoirs du tribunal en appel

Ordonnance autorisant le traitement en attendant l'issue de l'appel

Critères

- (a) the person's condition will be or is likely to be substantially improved by the treatment;
- (b) the person's condition will not improve or is not likely to improve without the treatment;
- (c) the anticipated benefit from the treatment outweighs the risk of harm to the person;
- (d) the treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c); and
- (e) the person's condition makes it necessary to administer the treatment before the final disposition of the appeal.

## MISCELLANEOUS

Offence:  
obstruction

**43.**—(1) No person shall hinder or obstruct an advocate who is meeting with a person in accordance with section 10 or 30, or is seeking to do so.

Exception

(2) Subsection (1) does not apply to the person with whom the advocate is meeting or seeking to meet.

Penalty

(3) A person who contravenes subsection (1) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$5,000.

Offence:  
false state-  
ment

**44.**—(1) No person shall, in a statement made under section 17 (statement by family member), assert something that he or she knows to be untrue.

Idem

(2) No person shall, in a statement about instructions with respect to treatment contained in a power of attorney for personal care, or in a statement about the wishes a person has expressed with respect to treatment, assert something that the person knows to be untrue or profess an opinion that he or she does not hold.

Penalty

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable, on conviction, to a fine not exceeding \$10,000.

Regulations

**45.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing categories of persons for the purpose of the definition of "health practitioner" in subsection 1 (1);
- (b) prescribing forms for the purpose of subsection 5 (4) (consent to treatment) with respect to specified treatments and circumstances, and specifying the treatments and circumstances;

- a) le traitement améliorera dans une grande mesure l'état de la personne, ou le fera vraisemblablement;
- b) l'état de la personne ne s'améliorera pas sans le traitement, ou ne le fera vraisemblablement pas;
- c) l'effet bénéfique prévu du traitement l'emporte sur le risque d'effets néfastes pour la personne;
- d) le traitement est le traitement le moins contraignant et le moins perturbateur qui satisfasse aux exigences des alinéas a), b) et c);
- e) l'état de la personne est tel qu'il est nécessaire que le traitement soit administré avant que l'appel ne soit réglé de façon définitive.

## DISPOSITIONS DIVERSES

**43** (1) Nul ne doit gêner ni entraver un intervenant qui rencontre une personne conformément à l'article 10 ou 30, ou qui cherche à le faire.

Infraction :  
entrave

(2) Le paragraphe (1) ne s'applique pas à la personne que l'intervenant rencontre ou cherche à rencontrer.

Exception

(3) Quiconque contrevient au paragraphe (1) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 5 000 \$.

Peine

**44** (1) Nul ne doit, dans une déclaration faite aux termes de l'article 17 (déclaration par un membre de la famille), affirmer quelque chose qu'il sait être faux.

Infraction :  
fausse déclara-  
tion

(2) Nul ne doit, dans une déclaration qui porte sur des instructions concernant un traitement contenues dans une procuration relative au soin de la personne, ou dans une déclaration concernant les désirs qu'une personne a exprimés en ce qui concerne un traitement, affirmer quelque chose qu'il sait être faux ou professer une opinion qui n'est pas la sienne.

Idem

(3) Quiconque contrevient au paragraphe (1) ou (2) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Peine

**45** Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des catégories de personnes aux fins de la définition de «praticien de la santé» qui figure au paragraphe 1 (1);
- b) prescrire des formules pour l'application du paragraphe 5 (4) (consentement au traitement) en ce qui concerne les traitements et circonstances précisés, et préciser ceux-ci;



- (c) prescribing other forms;
- (d) prescribing criteria to be applied and standards and procedures to be followed by health practitioners in determining capacity.

Transition

**46.—(1)** This Act applies in respect of a treatment that is begun after the day this Act comes into force, even if a finding as to capacity was made or consent was given before that day.

Idem

**(2)** This Act does not apply in respect of a treatment that is begun on or before the day this Act comes into force.

Commence-  
ment

**47.** This Act comes into force on the day the *Advocacy Act, 1991* comes into force.

Short title

**48.** The short title of this Act is the *Consent to Treatment Act, 1991*.

#### SCHEDULE

*Section 1, definition of "health practitioner"*

*Chiropody Act*

*Dental Technicians Act*

*Denture Therapists Act*

*Drugless Practitioners Act*

*Health Disciplines Act*

*Ophthalmic Dispensers Act*

*Psychologists Registration Act*

*Radiological Technicians Act*

- c) prescrire d'autres formules;
- d) prescrire les critères que les praticiens de la santé doivent appliquer et les normes et la procédure qu'ils doivent suivre pour évaluer la capacité d'une personne.

Disposition  
transitoire

**46 (1)** La présente loi s'applique à l'égard du traitement qui est commencé après le jour où la présente loi entre en vigueur, même si une constatation quant à la capacité d'une personne a été faite ou qu'un consentement a été donné avant ce jour.

Idem

**(2)** La présente loi ne s'applique pas à l'égard du traitement qui est commencé le jour où la présente loi entre en vigueur, ou avant ce jour.

Entrée en  
vigueur

**47** La présente loi entre en vigueur le jour où la *Loi de 1991 sur l'intervention* entre en vigueur.

Titre abrégé

**48** Le titre abrégé de la présente loi est *Loi de 1991 sur le consentement au traitement*.

#### ANNEXE

*Article 1, définition de «praticien de la santé»*

*Chiropody Act («Loi sur les podologues»)*

*Dental Technicians Act («Loi sur les techniciens dentaires»)*

*Denture Therapists Act («Loi sur les denturologues»)*

*Drugless Practitioners Act («Loi sur les praticiens ne prescrivant pas de médicaments»)*

*Health Disciplines Act («Loi sur les sciences de la santé»)*

*Ophthalmic Dispensers Act («Loi sur les opticiens d'ordonnances»)*

*Psychologists Registration Act («Loi sur l'inscription des psychologues»)*

*Radiological Technicians Act («Loi sur les techniciens en radiologie»)*







Bill 110

Government Bill

Projet de loi 110

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 110

**An Act to amend certain Statutes of  
Ontario consequent upon the enactment  
of the Consent to Treatment Act, 1991  
and the Substitute Decisions Act, 1991**

**The Hon. H. Hampton**  
Attorney General

1st Reading      May 27th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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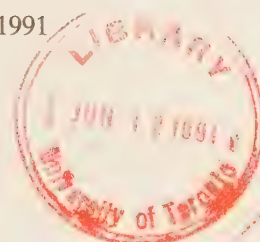
## Projet de loi 110

**Loi modifiant certaines lois de l'Ontario  
par suite de l'adoption de la Loi de 1991  
sur le consentement au traitement et de  
la Loi de 1991 sur la prise de décisions  
au nom d'autrui**

**L'honorable H. Hampton**  
Procureur général

1<sup>re</sup> lecture      27 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTES

The Bill repeals the *Mental Incompetency Act* and makes amendments to twenty-three other Acts.

Various statutes are amended to make material relating to consent to treatment consistent with the concepts and terminology of the *Consent to Treatment Act, 1991*. (Sections 3 and 8 and subsection 14 (3))

The *Health Protection and Promotion Act, 1983* is amended to make it clear that orders with respect to communicable diseases prevail over the *Consent to Treatment Act, 1991*. (Subsections 14 (1) and (2))

Various statutes are amended to replace references to committees of the estate and committees of the person (appointed under the *Mental Incompetency Act*) with references to guardians of property and guardians of the person (the terms used in the *Substitute Decisions Act, 1991*). (Sections 1, 2, 4, 5, 7, 9, 10 to 13, 15 to 17, 20, 23 and 24)

The provisions of the *Developmental Services Act* relating to property decisions made on behalf of incapable persons are repealed, since they are replaced by the corresponding provisions of the *Substitute Decisions Act, 1991*. (Section 6)

The provisions of the *Powers of Attorney Act* relating to powers of attorney that survive mental incapacity are repealed for the same reason. (Section 21)

The title of the *Public Trustee Act* becomes *Public Guardian and Trustee Act*, and the Act is amended to provide for the expanded role conferred on the Public Guardian and Trustee by both new Acts. (Section 22)

The *Mental Health Act* is extensively amended to ensure consistency with both new Acts, and its provisions relating to consent to treatment are repealed, since they are replaced by the corresponding provisions of the *Consent to Treatment Act, 1991*. (Section 18)

Since the Legislature has not yet adopted official French versions of twenty-one of the amended Acts, the Bill amends only their English versions. (The two amended Acts that were adopted in both languages are the *Family Law Act, 1986* and the *Loan and Trust Corporations Act, 1987*).

## NOTES EXPLICATIVES

Le projet de loi abroge la *Loi sur l'incapacité mentale* et apporte des modifications à vingt-trois autres lois.

Diverses lois sont modifiées de façon à aligner les dispositions concernant le consentement au traitement sur les concepts et la terminologie de la *Loi de 1991 sur le consentement au traitement*. (Articles 3 et 8 et paragraphe 14 (3))

La *Loi de 1983 sur la protection et la promotion de la santé* est modifiée de façon à préciser que les ordres concernant les maladies transmissibles l'emportent sur la *Loi de 1991 sur le consentement au traitement*. (Paragaphes 14 (1) et (2))

Diverses lois sont modifiées de façon à remplacer les termes «curateur aux biens» et «curateur à la personne» (nommés aux termes de la *Loi sur l'incapacité mentale*) par «tuteur aux biens» et «tuteur à la personne» (termes utilisés dans la *Loi de 1991 sur la prise de décisions au nom d'autrui*). (Articles 1, 2, 4, 5, 7, 9, 10 à 13, 15 à 17, 20, 23 et 24)

Les dispositions de la *Loi sur les services aux personnes atteintes d'un handicap de développement* concernant la prise de décisions relatives aux biens au nom de personnes incapables sont abrogées, ces dispositions étant remplacées par les dispositions correspondantes de la *Loi de 1991 sur la prise de décisions au nom d'autrui*. (Article 6)

Les dispositions de la *Loi sur les procurations* concernant les procurations qui survivent à l'incapacité mentale sont abrogées pour la même raison. (Article 21)

Le titre de la *Loi sur le Curateur public* devient *Loi sur le Tuteur et curateur public*, et la Loi est modifiée de façon à tenir compte du rôle élargi que les deux nouvelles lois confèrent au Tuteur et curateur public. (Article 22)

La *Loi sur la santé mentale* est modifiée considérablement de façon à s'aligner sur les deux nouvelles lois, et ses dispositions qui ont trait au consentement au traitement sont abrogées, celles-ci étant remplacées par les dispositions correspondantes de la *Loi de 1991 sur le consentement au traitement*. (Article 18)

La Législature n'ayant pas encore adopté de version française de vingt et une des lois modifiées, le projet de loi n'en modifie que la version anglaise. (Les deux lois modifiées qui ont été adoptées dans les deux langues sont la *Loi de 1986 sur le droit de la famille* et la *Loi de 1987 sur les compagnies de prêt et de fiducie*).

**An Act to amend certain Statutes of Ontario consequent upon the enactment of the Consent to Treatment Act, 1991 and the Substitute Decisions Act, 1991**

**Loi modifiant certaines lois de l'Ontario par suite de l'adoption de la Loi de 1991 sur le consentement au traitement et de la Loi de 1991 sur la prise de décisions au nom d'autrui**

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1. *Absentees Act* amended
2. *Bulk Sales Act* amended
3. *Children's Law Reform Act* amended
4. *Conveyancing and Law of Property Act* amended
5. *Corporations Act* amended
6. *Developmental Services Act* amended
7. *Drainage Act* amended
8. *Education Act* amended
9. *Estates Administration Act* amended
10. *Expropriations Act* amended
11. *Family Law Act, 1986* amended
12. *Healing Arts Radiation Protection Act* amended
13. *Health Insurance Act* amended
14. *Health Protection and Promotion Act, 1983* amended
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18. *Mental Health Act* amended
19. *Mental Incompetency Act* repealed
20. *Municipal Act* amended
21. *Powers of Attorney Act* amended
22. *Public Trustee Act* amended
23. *Solicitors Act* amended
24. *Trustee Act* amended
25. Commencement
26. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**ABSENTEES ACT**

**1. Section 6 of the *Absentees Act* is repealed and the following substituted:**

Powers and duties of court and committee

**6.** Where a committee of the estate of an absentee has been appointed, the powers and duties of the court and committee are the same, with necessary modifications, as the powers and duties

**SOMMAIRE**

1. *Loi sur les absents* modifiée
2. *Loi sur la vente en bloc* modifiée
3. *Loi portant réforme du droit de l'enfance* modifiée
4. *Loi sur les actes translatifs de propriété et le droit des biens* modifiée
5. *Loi sur les personnes morales* modifiée
6. *Loi sur les services aux personnes atteintes d'un handicap de développement* modifiée
7. *Loi sur le drainage* modifiée
8. *Loi sur l'éducation* modifiée
9. *Loi sur l'administration des successions* modifiée
10. *Loi sur l'expropriation* modifiée
11. *Loi de 1986 sur le droit de la famille* modifiée
12. *Loi sur la protection contre les rayons X* modifiée
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14. *Loi de 1983 sur la protection et la promotion de la santé* modifiée
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16. *Loi sur l'enregistrement des droits immobiliers* modifiée
17. *Loi de 1987 sur les compagnies de prêt et de fiducie* modifiée
18. *Loi sur la santé mentale* modifiée
19. *Loi sur l'incapacité mentale* abrogée
20. *Loi sur les municipalités* modifiée
21. *Loi sur les procurations* modifiée
22. *Loi sur le Curateur public* modifiée
23. *Loi sur les procureurs* modifiée
24. *Loi sur les fiduciaires* modifiée
25. Entrée en vigueur
26. Titre abrégé

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**LOI SUR LES ABSENTS**

**1** L'article 6 de la loi intitulée *Absentees Act* («*Loi sur les absents*») est abrogé et remplacé par ce qui suit :



of the court and of a guardian of property under the *Substitute Decisions Act, 1991*.

#### BULK SALES ACT

2. Section 2 of the *Bulk Sales Act* is amended by striking out “committee of the estate of a mentally incompetent or incapable person, the Public Trustee as committee under the *Mental Health Act* or an order made under that Act” in the second, third, fourth and fifth lines and substituting “guardian of property under the *Substitute Decisions Act, 1991*”.

#### CHILDREN’S LAW REFORM ACT

3. Subsection 10 (4) of the *Children’s Law Reform Act*, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 4, is repealed and the following substituted:

Consent to  
procedure

(4) The *Consent to Treatment Act, 1991* applies to the blood test.

#### CONVEYANCING AND LAW OF PROPERTY ACT

4. Paragraph 3 of subsection 23 (1) of the *Conveyancing and Law of Property Act* is amended by striking out “committee of a mentally incompetent person” in the fourth and fifth lines and substituting “guardian of property”.

#### CORPORATIONS ACT

5.—(1) Subsection 37 (5) of the *Corporations Act* is amended by striking out “committee of a mentally incompetent person” in the second line.

(2) Subsection 48 (4) of the Act is amended by striking out “committee of a mentally incompetent person” in the second line and in the seventh line.

(3) Subsection 57 (1) of the Act is amended by striking out “committee of a mentally incompetent person” in the first and second lines.

(4) Subsection 57 (2) of the Act is amended by striking out “mentally incompetent person” in the second line and substituting “mentally incapable person”.

(5) Subsection 57 (3) of the Act is amended by striking out “mentally incompetent person” in the first and second lines and substituting “mentally incapable person”.

(6) Subsection 81 (5) of the Act is amended by striking out “committee of a mentally incompetent person” in the second line.

#### LOI SUR LA VENTE EN BLOC

2 L'article 2 de la loi intitulée *Bulk Sales Act* («*Loi sur la vente en bloc*») est modifié par substitution, à «committee of the estate of a mentally incompetent or incapable person, the Public Trustee as committee under the *Mental Health Act* or an order made under that Act» aux deuxième, troisième, quatrième et cinquième lignes, de «guardian of property under the *Substitute Decisions Act, 1991*».

#### LOI PORTANT RÉFORME DU DROIT DE L'ENFANCE

3 Le paragraphe 10 (4) de la loi intitulée *Children’s Law Reform Act* («*Loi portant réforme du droit de l'enfance*»), tel qu'il est adopté de nouveau par l'article 4 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

#### LOI SUR LES ACTES TRANSLATIFS DE PROPRIÉTÉ ET LE DROIT DES BIENS

4 La disposition 3 du paragraphe 23 (1) de la loi intitulée *Conveyancing and Law of Property Act* («*Loi sur les actes translatifs de propriété et le droit des biens*») est modifiée par substitution, à «committee of a mentally incompetent person» aux quatrième et cinquième lignes, de «guardian of property».

#### LOI SUR LES PERSONNES MORALES

5 (1) Le paragraphe 37 (5) de la loi intitulée *Corporations Act* («*Loi sur les personnes morales*») est modifié par suppression de «committee of a mentally incompetent person» à la deuxième ligne.

(2) Le paragraphe 48 (4) de la Loi est modifié par suppression de «committee of a mentally incompetent person» à la deuxième ligne et à la septième ligne.

(3) Le paragraphe 57 (1) de la Loi est modifié par suppression de «committee of a mentally incompetent person» aux première et deuxième lignes.

(4) Le paragraphe 57 (2) de la Loi est modifié par substitution, à «mentally incompetent person» à la deuxième ligne, de «mentally incapable person».

(5) Le paragraphe 57 (3) de la Loi est modifié par substitution, à «mentally incompetent person» aux première et deuxième lignes, de «mentally incapable person».

(6) Le paragraphe 81 (5) de la Loi est modifié par suppression de «committee of a mentally incompetent person» à la deuxième ligne.

(7) Section 91 of the Act is amended by striking out “committee of a mentally incompetent person” in the first and second lines, and by striking out “mentally incompetent person” in the fourth and fifth lines and substituting “mentally incapable person”.

(8) Subsection 111 (2) of the Act is amended by striking out “committee of a mentally incompetent person” in the second and third lines.

#### DEVELOPMENTAL SERVICES ACT

6.—(1) Sections 10 to 18 and 20 to 34 of the *Developmental Services Act* are repealed.

Transition

(2) If, before the day this Act comes into force, a certificate of incompetence was issued or deemed to have been issued under section 10 of the Act in respect of a resident, the Public Guardian and Trustee is the resident's statutory guardian of property as if the guardianship had been created under section 16 of the *Substitute Decisions Act, 1991*.

Idem

(3) An advocate as defined in the *Substitute Decisions Act, 1991* shall meet with the resident and explain the statutory guardianship and the resident's rights in connection with it.

Idem

(4) A statutory guardianship referred to in subsection (2) is terminated on the second anniversary of the coming into force of this Act, unless an advocate, before that day, makes a statement in writing to the Public Guardian and Trustee, and to the statutory guardian, if another person is the statutory guardian, certifying that he or she has complied with subsection (3) and is satisfied that the resident does not object to the statutory guardianship.

Idem

(5) If a notice of continuance was issued under section 15 of the Act before the day this Act comes into force, the Public Guardian and Trustee is the resident's statutory guardian of property as if the guardianship had been created under section 16 of the *Substitute Decisions Act*.

Idem

(6) A statutory guardianship referred to in subsection (5) is terminated on the day that is three months after the resident's discharge from the facility.

#### DRAINAGE ACT

7. Paragraph 20 of section 1 of the *Drainage Act* is repealed and the following substituted:

(7) L'article 91 de la Loi est modifié par suppression de «committee of a mentally incompetent person» aux première et deuxième lignes, et par substitution, à «mentally incompetent person» aux quatrième et cinquième lignes, de «mentally incapable person».

(8) Le paragraphe 111 (2) de la Loi est modifié par suppression de «committee of a mentally incompetent person» aux deuxième et troisième lignes.

#### LOI SUR LES SERVICES AUX PERSONNES ATTEINTES D'UN HANDICAP DE DÉVELOPPEMENT

6 (1) Les articles 10 à 18 et 20 à 34 de la loi intitulée *Developmental Services Act* («*Loi sur les services aux personnes atteintes d'un handicap de développement*») sont abrogés.

(2) Si, avant le jour de l'entrée en vigueur de la présente loi, un certificat d'incapacité a été ou est réputé avoir été délivré aux termes de l'article 10 de la Loi à l'égard d'un résident, le Tuteur et curateur public est le tuteur légal aux biens de ce dernier comme si la tutelle avait été créée en vertu de l'article 16 de la *Loi de 1991 sur la prise de décisions au nom d'autrui*.

Disposition  
transitoire

(3) Un intervenant au sens de la *Loi de 1991 sur la prise de décisions au nom d'autrui* rencontre le résident et lui explique la tutelle légale et ses droits à cet égard.

Idem

(4) La tutelle légale visée au paragraphe (2) prend fin le jour du deuxième anniversaire de l'entrée en vigueur de la présente loi à moins qu'un intervenant, avant ce jour, ne remette une déclaration écrite au Tuteur et curateur public, et au tuteur légal s'il s'agit d'une autre personne, attestant qu'il s'est conformé au paragraphe (3) et qu'il est convaincu que le résident ne s'oppose pas à la tutelle légale.

Idem

(5) Si un avis de prorogation de la curatelle a été délivré aux termes de l'article 15 de la Loi avant le jour de l'entrée en vigueur de la présente loi, le Tuteur et curateur public est le tuteur légal aux biens du résident comme si la tutelle avait été créée en vertu de l'article 16 de la *Loi sur la prise de décisions au nom d'autrui*.

Idem

(6) La tutelle légale visée au paragraphe (5) prend fin le jour qui tombe trois mois après la mise en congé du résident de l'établissement.

Idem

#### LOI SUR LE DRAINAGE

7 La disposition 20 de l'article 1 de la loi intitulée *Drainage Act* («*Loi sur le drainage*») est abrogée et remplacée par ce qui suit :



20. "owner" includes a guardian of property and a guardian, executor, administrator or trustee in whom land is vested.

#### EDUCATION ACT

**8.** Paragraph 23 of subsection 150 (1) of the *Education Act* is amended by striking out "the consent of the parents or guardian of the child" in the last two lines and substituting "consent that complies with the *Consent to Treatment Act, 1991*".

#### ESTATES ADMINISTRATION ACT

**9.** Subsection 17 (4) of the *Estates Administration Act* is repealed and the following substituted:

Patient in  
psychiatric  
facility

(4) Where a person beneficially entitled is a patient in a psychiatric facility under the *Mental Health Act* and the Public Guardian and Trustee is his or her guardian of property, the Public Guardian and Trustee may give the concurrence and approval required by subsections (2) and (3).

#### EXPROPRIATIONS ACT

**10.** Clause 1 (1) (h) of the *Expropriations Act* is repealed and the following substituted:

(h) "owner" includes a mortgagee, tenant, execution creditor, a person entitled to a limited estate or interest in land, a guardian of property, and a guardian, executor, administrator or trustee in whom land is vested.

#### FAMILY LAW ACT, 1986

**11.** Subsection 55 (3) of the *Family Law Act, 1986* is repealed and the following substituted:

(3) If a mentally incapable person has a guardian of property other than his or her own spouse, the guardian may enter into a domestic contract or give any waiver or consent under this Act on the person's behalf, subject to the approval of the court, given in advance.

(4) In all other cases of mental incapacity, the Public Guardian and Trustee has power to act on the person's behalf in accordance with subsection (3).

#### HEALING ARTS RADIATION PROTECTION ACT

**12.** Clause 21 (2) (c) of the *Healing Arts Radiation Protection Act* is repealed and the following substituted:

(c) to the person who provided a service to which the information is related, the person's solicitor, other personal representative, executor, administrator, guardian of property, trustee in bankruptcy or other legal representative.

#### LOI SUR L'ÉDUCATION

**8** La disposition 23 du paragraphe 150 (1) de la loi intitulée *Education Act* («*Loi sur l'éducation*») est modifiée par substitution, à «the consent of the parents or guardian of the child» aux deux dernières lignes, de «consent that complies with the *Consent to Treatment Act, 1991*».

#### LOI SUR L'ADMINISTRATION DES SUCCESSIONS

**9** Le paragraphe 17 (4) de la loi intitulée *Estates Administration Act* («*Loi sur l'administration des successions*») est abrogé et remplacé par ce qui suit :

#### LOI SUR L'EXPROPRIATION

**10** L'alinéa 1 (1) (h) de la loi intitulée *Expropriations Act* («*Loi sur l'expropriation*») est abrogé et remplacé par ce qui suit :

#### LOI DE 1986 SUR LE DROIT DE LA FAMILLE

**11** Le paragraphe 55 (3) de la *Loi de 1986 sur le droit de la famille* est abrogé et remplacé par ce qui suit :

(3) Si un incapable mental a un tuteur aux biens autre que son propre conjoint, le tuteur peut conclure un contrat familial ou donner la renonciation ou le consentement prévus par la présente loi au nom de l'incapable, sous réserve de l'approbation préalable du tribunal.

(4) Dans tout autre cas d'incapacité mentale, le Tuteur et curateur public peut agir au nom de la personne conformément au paragraphe (3).

#### LOI SUR LA PROTECTION CONTRE LES RAYONS X

**12** L'alinéa 21 (2) (c) de la loi intitulée *Healing Arts Radiation Protection Act* («*Loi sur la protection contre les rayons X*») est abrogé et remplacé par ce qui suit :

Guardian of  
property

P.G.T.

Tuteur aux  
biens

T.C.P.

## HEALTH INSURANCE ACT

**13.** Clause 44 (2) (c) of the *Health Insurance Act* is repealed and the following substituted:

- (c) to the person who provided the service, the person's solicitor, other personal representative, executor, administrator, guardian of property, trustee in bankruptcy or other legal representative.

## HEALTH PROTECTION AND PROMOTION ACT, 1983

**14.**—(1) Section 22 of the *Health Protection and Promotion Act, 1983* is amended by adding the following subsection:

Consent to  
treatment  
not required

- (5a) An order under this section that requires the person to whom it is directed to submit to an examination by a physician as described in clause (4) (f) or to place himself or herself under the care and treatment of a physician as described in clause (4) (g) is binding on the person, even if consent is not given in accordance with the *Consent to Treatment Act, 1991*.

(2) Section 35 of the Act is amended by adding the following subsection:

Consent to  
treatment  
not required

- (7a) An order made under this section is authority to examine the person and treat him or her for the virulent disease in accordance with generally accepted medical practice, even if consent is not given in accordance with the *Consent to Treatment Act, 1991*.

(3) Subsection 37a (2) of the Act, as re-enacted by the Statutes of Ontario, 1987, chapter 32, section 1, is repealed and the following substituted:

Duty to  
inform  
patients

- (2) In addition to obtaining consent to the administration of the immunizing agent in accordance with the *Consent to Treatment Act, 1991*, the physician or other person authorized to administer it shall cause the person who gives consent to be informed of the importance of reporting to a physician forthwith any reaction that might be a reportable event.

## LAND REGISTRATION REFORM ACT, 1984

**15.** Paragraph 3 of subsection 5 (1) of the *Land Registration Reform Act, 1984* is amended by striking out "committee of a mentally incompetent person" in the fourth line and substituting "guardian of the property of a mentally incapable person".

## LAND TITLES ACT

**16.** Section 76 of the *Land Titles Act* is repealed and the following substituted:

Guardian

- 76.**—(1) The guardian of the property of a minor or of a mentally incapable person may make an application, give consent, do an act or be party to a proceeding under this Act if the minor or

## LOI SUR L'ASSURANCE-SANTÉ

**13** L'alinéa 44 (2) (c) de la loi intitulée *Health Insurance Act* («*Loi sur l'assurance-santé*») est abrogé et remplacé par ce qui suit :

## LOI DE 1983 SUR LA PROTECTION ET LA PROMOTION DE LA SANTÉ

**14** (1) L'article 22 de la loi intitulée *Health Protection and Promotion Act, 1983* («*Loi de 1983 sur la protection et la promotion de la santé*») est modifié par adjonction du paragraphe suivant :

(2) L'article 35 de la Loi est modifié par adjonction du paragraphe suivant :

(3) Le paragraphe 37a (2) de la Loi, tel qu'il est adopté de nouveau par l'article 1 du chapitre 32 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :

## LOI DE 1984 PORTANT RÉFORME DE L'ENREGISTREMENT IMMOBILIER

**15** La disposition 3 du paragraphe 5 (1) de la loi intitulée *Land Registration Reform Act, 1984* («*Loi de 1984 portant réforme de l'enregistrement immobilier*») est modifiée par substitution, à «committee of a mentally incompetent person» à la quatrième ligne, de «guardian of the property of a mentally incapable person».

## LOI SUR L'ENREGISTREMENT DES DROITS IMMOBILIERS

**16** L'article 76 de la loi intitulée *Land Titles Act* («*Loi sur l'enregistrement des droits immobiliers*») est abrogé et remplacé par ce qui suit :



mentally incapable person could have done so if free from disability.

Idem (2) The guardian shall represent the minor or mentally incapable person for the purposes of this Act.

Idem (3) If a minor or a mentally incapable person has no guardian of property, the Official Guardian has power to act under subsections (1) and (2), or the land registrar may appoint a person with power to act under those subsections.

Idem (4) If a person yet unborn is interested, subsection (3) applies, with necessary modifications.

#### LOAN AND TRUST CORPORATIONS ACT, 1987

**17.—**(1) The definition of “personal representative” in section 1 of the *Loan and Trust Corporations Act, 1987* is amended by striking out “or the committee of or curator to a mentally incompetent person” in the second and third lines.

(2) The definition of “trust corporation” in section 1 of the Act is amended by striking out “guardian of a minor’s estate or committee of a mentally incompetent person’s estate” in the fourth and fifth lines and substituting “guardian of property”.

#### MENTAL HEALTH ACT

**18.—**(1) Section 1 of the *Mental Health Act*, as amended by the Statutes of Ontario, 1986, chapter 64, section 33 and 1987, chapter 37, section 1, is further amended by relettering clause (a) as clause (aa) and by adding the following clauses:

(a) “advocate” means a person who works as an advocate, whether on a paid or voluntary basis, for the Advocacy Commission or in a community program operated under the *Advocacy Act, 1991*;

(ab) “Board” means the Consent and Capacity Review Board established by the *Consent to Treatment Act, 1991*.

(2) Clause 1 (ba) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 37, section 1, is repealed and the following substituted:

(ba) “informal patient” means a person who is a patient in a psychiatric facility, having been admitted with the consent of another person who is entitled to give or refuse consent to treatment on his or her behalf under the *Consent to Treatment Act, 1991*.

(3) Clause 1 (sa) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 37, section 1, is repealed.

(4) Clause 1 (ta) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

#### LOI DE 1987 SUR LES COMPAGNIES DE PRÊT ET DE FIDUCIE

**17** (1) La définition de «ayant droit» à l'article 1 de la *Loi de 1987 sur les compagnies de prêt et de fiducie* est modifiée par suppression de «ou curateur à la personne ou aux biens d'une personne frappée d'incapacité mentale» aux deuxième, troisième et quatrième lignes.

(2) La définition de «compagnie de fiducie» à l'article 1 de la *Loi* est modifiée par suppression de «d'un enfant mineur ou curateur aux biens d'une personne frappée d'incapacité mentale» aux cinquième et sixième lignes.

#### LOI SUR LA SANTÉ MENTALE

**18** (1) L'article 1 de la loi intitulée *Mental Health Act* («*Loi sur la santé mentale*»), tel qu'il est modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986 et par l'article 1 du chapitre 37 des Lois de l'Ontario de 1987, est modifié de nouveau par substitution, à la désignation d'alinéa (a), de la désignation d'alinéa (aa) et par adjonction des alinéas suivants :

(a) “advocate” means a person who works as an advocate, whether on a paid or voluntary basis, for the Advocacy Commission or in a community program operated under the *Advocacy Act, 1991*;

(ab) “Board” means the Consent and Capacity Review Board established by the *Consent to Treatment Act, 1991*.

(2) L'alinéa 1 (ba) de la *Loi*, tel qu'il est adopté par l'article 1 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :

(ba) “informal patient” means a person who is a patient in a psychiatric facility, having been admitted with the consent of another person who is entitled to give or refuse consent to treatment on his or her behalf under the *Consent to Treatment Act, 1991*.

(3) L'alinéa 1(sa) de la *Loi*, tel qu'il est adopté par l'article 1 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé.

(4) L'alinéa 1 (ta) de la *Loi*, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(5) Section 1 of the Act is further amended by adding the following subsection:

Meaning of  
"explain"

(2) An advocate or other person whom this Act requires to explain a matter satisfies that requirement by explaining the matter to the best of his or her ability and in a manner that addresses the special needs of the person receiving the explanation, whether that person understands it or not.

(6) The Act is amended by striking out "review board" and "board" wherever they occur and substituting in each case "Board".

(7) Sections 1a, 1b, 1c and 1d of the Act, as enacted by the Statutes of Ontario, 1987, chapter 37, section 2, are repealed.

(8) Subsection 8a (6) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted:

Procedure

(6) Sections 33 and 33a of this Act and sections 36 to 41 of the *Consent to Treatment Act, 1991* apply to an application under subsection (1), with necessary modifications.

(9) Clause 29 (3) (b) of the Act, as amended by the Statutes of Ontario, 1987, chapter 37, section 4, is repealed and the following substituted:

(b) where the patient is not mentally competent, any person with the consent of the person entitled to give or refuse consent to treatment on the patient's behalf under the *Consent to Treatment Act, 1991* or of the representative appointed under section 29b or 29c.

(10) Clause 29 (3) (e) of the Act, as amended by the Statutes of Ontario, 1987, chapter 37, section 4, is repealed and the following substituted:

(e) with the patient's consent or, where the patient is not mentally competent, with the consent of the person entitled to give or refuse consent to treatment on the patient's behalf under the *Consent to Treatment Act, 1991* or of the representative appointed under section 29b or 29c or, where delay in obtaining consent would endanger the life, limb or a vital organ of the patient, without consent, a person currently involved in the direct health care of the patient in a health facility.

(11) Subsection 29 (9) of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33 and 1987, chapter 37, section 4, is repealed and the following substituted:

Disclosure in  
proceeding

(9) No person shall disclose in a proceeding in any court or before any body any information in respect of a patient obtained in the course of assessing or treating the patient, or in the course of assisting in his or her assessment or treatment, or in the course of employment in the psychiatric facility, except,

(a) where the patient is mentally competent, with the patient's consent;

(b) where the patient is not mentally competent, with the consent of the person entitled to give or refuse consent to treatment on the patient's behalf under the *Consent to*

(5) L'article 1 de la Loi est modifié en outre par adjonction du paragraphe suivant :

(6) La Loi est modifiée par substitution, à «review board» et «board» partout où ils figurent, de «Board».

(7) Les articles 1a, 1b, 1c et 1d de la Loi, tels qu'ils sont adoptés par l'article 2 du chapitre 37 des Lois de l'Ontario de 1987, sont abrogés.

(8) Le paragraphe 8a (6) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

(9) L'alinéa 29 (3) (b) de la Loi, tel qu'il est modifié par l'article 4 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :

(10) L'alinéa 29 (3) (e) de la Loi, tel qu'il est modifié par l'article 4 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :

(11) Le paragraphe 29 (9) de la Loi, tel qu'il est modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986 et par l'article 4 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :



*Treatment Act, 1991* or of the representative appointed under section 29b or 29c; or

- (c) where the court or, in the case of a proceeding not before a court, the Divisional Court determines, after a hearing from which the public is excluded and that is held on notice to the patient or (if the patient is not mentally competent) the person or representative referred to in clause (b), that the disclosure is essential in the interests of justice.

(12) Subsection 29a (12) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted:

Order final

(12) The Board's order, on an application made under subsection (4), is final and not subject to appeal or review.

(13) Subsection 29a (15) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted:

Idem

(15) Sections 33 and 33a of this Act and sections 36 to 41 of the *Consent to Treatment Act, 1991* apply to an application under subsection (14), with necessary modifications.

(14) Subsection 29a (16) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33 and amended by 1987, chapter 37, section 5, is repealed and the following substituted:

Patient not mentally competent

(16) Where a patient is not mentally competent, the person entitled to give or refuse consent to treatment on the patient's behalf under the *Consent to Treatment Act, 1991* or the representative appointed under section 29b or 29c is entitled to examine and copy the clinical record of the patient's observation, assessment, care and treatment in a psychiatric facility or a copy of that record.

(15) The Act is further amended by adding the following sections:

Representative

**29b.**—(1) A person who is at least sixteen years old and is mentally competent to do so may appoint a representative for the purposes of subsections 29 (3), 29 (9) and 29a (16) (access to clinical record).

Criteria

(2) The representative must be at least sixteen years old and must be apparently mentally competent for the purposes of exercising access to the person's clinical record and giving or refusing consent to its disclosure to other persons.

Ranking

(3) If the representative and a person referred to in subsection 16 (1) of the *Consent to Treatment Act, 1991* both claim the authority to exercise access to a clinical record or to give or refuse consent to its disclosure to other persons, the matter shall be determined as if the representative had been appointed by the Board under section 27 of that Act.

Rules

(4) The following rules apply with respect to the appointment of a representative under this section:

1. Within forty-eight hours after a patient is admitted to or registered in a psychiatric facility, the attending physician shall inform him or her of the right to appoint a representative and shall give him or her a notice in the prescribed

(12) Le paragraphe 29a (12) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

(13) Le paragraphe 29a (15) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

(14) Le paragraphe 29a (16) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986 et modifié par l'article 5 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :

(15) La Loi est modifiée en outre par adjonction des articles suivants :

form setting out the powers and responsibilities of a representative.

2. An appointment shall be made in writing in the presence of a witness.
3. An appointment may be subject to any conditions and restrictions that are contained in it and are not inconsistent with this Act.
4. A person who has appointed a representative may revoke the appointment, in writing, while mentally competent to appoint a representative.
5. If a patient gives or transmits to the officer in charge a document appointing a representative or revoking an appointment, the officer in charge shall transmit the document to the representative forthwith.

Application  
to Board

**29c.**—(1) A patient who is at least sixteen years old, has not appointed a representative under section 29b and is not mentally competent to do so may apply to the Board for the appointment of a representative for the purposes of subsections 29 (3), 29 (9) and 29a (16) (access to clinical record).

Physician's  
notice

(2) As soon as possible after determining that the patient is not competent to appoint a representative, the attending physician shall inform him or her of the right to apply to the Board for the appointment of a representative and shall give him or her a notice in the prescribed form setting out the powers and responsibilities of a representative.

Parties

- (3) The following persons are parties to the application:
1. The patient.
  2. The proposed representative.
  3. The person entitled to give or refuse consent to treatment on the patient's behalf under the *Consent to Treatment Act, 1991*.
  4. Any other person specified by the Board.

Criteria

- (4) The Board shall appoint a person as representative for the patient only if,
- (a) the Board is satisfied that the person is at least sixteen years old, is apparently mentally competent for the purposes of exercising access to the patient's clinical record and giving or refusing consent to its disclosure to other persons, and consents to the appointment;
  - (b) the Board is of the opinion that the appointment is in the patient's interest.

Different  
person

- (5) If the patient approves, the Board may appoint a different person than the one proposed in the application.

Conditions  
and restric-  
tions

- (6) If the patient approves them, the Board may set out in the order appointing the representative conditions and restrictions that are not inconsistent with this Act.

(16) Section 30 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(17) Section 30a of the Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 66 and amended by the Statutes of Ontario, 1986, chapter 64, section 33 and 1987, chapter 37, section 6, is repealed and the following substituted:

(16) L'article 30 de la Loi, tel qu'il est modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(17) L'article 30a de la Loi, tel qu'il est adopté par l'article 66 du chapitre 262 des Lois refondues de l'Ontario de 1980 et modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986 et par l'article 6 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :



Notice of  
certificate

**30a.**—(1) An attending physician who completes a certificate of involuntary admission or a certificate of renewal shall promptly give the patient a written notice of the fact that states the reasons for the detention and indicates the patient is entitled to a hearing before the Board, and shall also promptly notify an advocate.

Advocate

(2) The advocate shall promptly meet with the patient and explain to him or her the significance of the certificate and the right to have it reviewed by the Board.

Notice re  
competence

(3) A physician who determines that a patient is not mentally competent to examine a clinical record or to give or refuse consent to its disclosure to other persons shall promptly give the patient a written notice of the fact that states the reasons for the detention and indicates the patient is entitled to a hearing before the Board, and shall also promptly notify an advocate.

Advocate

(4) The advocate shall promptly meet with the patient and explain to him or her the significance of the determination and the right to have it reviewed by the Board.

Notice of  
child's right

(5) Whenever a child has a right to apply to the Board under section 8a, the officer in charge shall promptly give the child a written notice of the fact that states the reasons for the detention and indicates the child is entitled to a hearing before the Board, and shall also promptly notify an advocate.

Advocate

(6) The advocate shall promptly meet with the child and explain to him or her the right to apply to the Board under section 8a.

Exception

(7) Subsections (2), (4) and (6) do not apply if the person himself or herself refuses to meet with the advocate.

Assistance

(8) At the person's request, the advocate shall assist him or her in making an application to the Board and in obtaining legal services.

Notice of  
application  
or order

**30b.**—(1) The attending physician of a person who is the subject of an application for assessment under section 9 or an order under section 26 shall promptly give the person a written notice of the application or order.

Idem

(2) The notice shall state the reasons for the detention and shall indicate that the person has the right to retain and instruct counsel without delay.

(18) Section 31 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33 and 1987, chapter 37, section 7, is further amended by adding the following subsection:

(18) L'article 31 de la Loi, tel qu'il est modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986 et par l'article 7 du chapitre 37 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction du paragraphe suivant :

Composition  
and quorum  
of panels

(6) The following rules apply with respect to the composition and quorum of panels of the Board that hear applications under this section:

1. A three-member panel shall consist of a psychiatrist, a lawyer and a third person who is neither a psychiatrist nor a lawyer. Despite subsection 35 (4) of the *Consent to Treatment Act, 1991* (majority of panel constitutes quorum), all the members of the panel are required to make up the quorum.
2. A five-member panel shall include one or two psychiatrists and one or two lawyers. The other member or members shall be persons who are neither psychiatrists nor lawyers. A psychiatrist, a lawyer and a member who is neither a

psychiatrist nor a lawyer are required to make up the quorum.

(19) Sections 33b and 33c of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, are repealed.

(20) Sections 33d and 33e of the Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, are repealed.

(21) Subsection 33f (1) of the Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed and the following substituted:

Appeal to  
court

(1) A party to a proceeding under this Act before the Board may appeal the Board's decision to the Ontario Court (General Division).

(22) Subsection 33f (1a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(23) Subsections 33f (1b) and (1c) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, are repealed and the following substituted:

Idem

(1b) Section 41 of the *Consent to Treatment Act, 1991* applies to the appeal.

(24) Subsection 33f (1e) of the Act, as re-enacted by the Statutes of Ontario, 1987, chapter 37, section 10, is amended by striking out "applies" in the fourth line and substituting "makes a motion".

(25) Subsection 33f (2) of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(26) Subsection 33f (2a) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

(27) Subsection 33f (3) of the Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67, is repealed.

(28) Subsections 33f (4), (5) and (6) of the Act, as enacted by the Revised Statutes of Ontario, 1980, chapter 262, section 67 and amended by the Statutes of Ontario, 1986, chapter 64, section 33, are repealed.

(29) Section 35 of the Act, as re-enacted by the Statutes of Ontario, 1987, chapter 37, section 11, is repealed and the following substituted:

Psychosur-  
gery

**35.**—(1) Psychosurgery shall not be administered to an involuntary patient, to a person who is incapable of giving or refusing consent to psychosurgery on his or her own behalf for the pur-

(19) Les articles 33b et 33c de la Loi, tels qu'ils sont adoptés de nouveau par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, sont abrogés.

(20) Les articles 33d et 33e de la Loi, tels qu'ils sont adoptés par l'article 67 du chapitre 262 des Lois refondues de l'Ontario de 1980 et modifiés par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, sont abrogés.

(21) Le paragraphe 33f (1) de la Loi, tel qu'il est adopté par l'article 67 du chapitre 262 des Lois refondues de l'Ontario de 1980 et modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

(22) Le paragraphe 33f (1a) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(23) Les paragraphes 33f (1b) et (1c) de la Loi, tels qu'ils sont adoptés par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, sont abrogés et remplacés par ce qui suit :

(24) Le paragraphe 33f (1e) de la Loi, tel qu'il est adopté de nouveau par l'article 10 du chapitre 37 des Lois de l'Ontario de 1987, est modifié par substitution, à «applies» à la quatrième ligne, de «makes a motion».

(25) Le paragraphe 33f (2) de la Loi, tel qu'il est adopté de nouveau par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(26) Le paragraphe 33f (2a) de la Loi, tel qu'il est adopté par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(27) Le paragraphe 33f (3) de la Loi, tel qu'il est adopté par l'article 67 du chapitre 262 des Lois refondues de l'Ontario de 1980, est abrogé.

(28) Les paragraphes 33f (4), (5) et (6) de la Loi, tels qu'ils sont adoptés par l'article 67 du chapitre 262 des Lois refondues de l'Ontario de 1980 et modifiés par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, sont abrogés.

(29) L'article 35 de la Loi, tel qu'il est adopté de nouveau par l'article 11 du chapitre 37 des Lois de l'Ontario de 1987, est abrogé et remplacé par ce qui suit :



poses of the *Consent to Treatment Act, 1991*, or to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada).

Idem

(2) Psychosurgery is any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or that inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions, intractable physical pain or epilepsy, if these conditions are clearly demonstrable.

(30) Sections 35a, 35b and 35c of the Act, as enacted by the Statutes of Ontario, 1987, chapter 37, section 12, are repealed.

(30) Les articles 35a, 35b et 35c de la Loi, tels qu'ils sont adoptés par l'article 12 du chapitre 37 des Lois de l'Ontario de 1987, sont abrogés.

(31) Sections 36 and 37 of the Act are repealed and the following substituted:

(31) Les articles 36 et 37 de la Loi sont abrogés et remplacés par ce qui suit :

Examination  
on admission  
to determine  
capacity

**36.**—(1) Forthwith on a patient's admission to a psychiatric facility, a physician shall examine him or her to determine whether the patient is capable of managing property.

Examination  
at other  
times

(2) A patient's attending physician may examine him or her at any time to determine whether the patient is capable of managing property.

Clinical  
record

(3) After an examination under subsection (1) or (2), the physician shall note his or her determination, with reasons, in the patient's clinical record.

Certificate of  
incapacity

(4) If the physician determines that the patient is not capable of managing property, he or she shall issue a certificate of incapacity in the prescribed form, and the officer in charge shall transmit the certificate to the Public Guardian and Trustee.

Idem

(5) If the circumstances are such that the Public Guardian and Trustee should immediately assume management of the patient's property, the officer in charge (or the physician who examined the patient, if the officer in charge is absent) shall notify the Public Guardian and Trustee of the matter as quickly as possible.

Exception

(6) This section does not apply if the patient's property is under guardianship under the *Substitute Decisions Act, 1991*.

Financial  
statement

**37.** When a certificate of incapacity is issued, the officer in charge shall forthwith transmit a financial statement in the prescribed form to the Public Guardian and Trustee.

(32) Section 38 of the Act, as amended by the Statutes of Ontario, 1983, chapter 75, section 1, is repealed and the following substituted:

(32) L'article 38 de la Loi, tel qu'il est modifié par l'article 1 du chapitre 75 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

Cancellation  
of certificate

**38.** The attending physician of a patient with respect to whom a certificate of incapacity has been issued may, after examining the patient for that purpose, cancel the certificate, and the officer in charge shall transmit a notice of cancellation in the prescribed form to the Public Guardian and Trustee.

(33) Sections 39, 40 and 41 of the Act are repealed and the following substituted:

(33) Les articles 39, 40 et 41 de la Loi sont abrogés et remplacés par ce qui suit :

Examination  
before  
discharge to  
determine  
capacity

**39.**—(1) Within twenty-one days before the discharge from the psychiatric facility of a patient with respect to whom a certificate of incapacity has been issued, the attending physician shall examine him or her to determine whether the patient is capable of managing property.

Notice of  
continuance

(2) If the attending physician determines that the patient is not capable of managing property, he or she shall issue a notice of continuance in the prescribed form, and the officer in charge shall transmit the notice to the Public Guardian and Trustee.

Notice of  
discharge

**40.** When a patient in respect of whom a certificate of continuance has been issued is discharged from the psychiatric facility, the officer in charge shall transmit notice of the fact to the Public Guardian and Trustee.

Advice to  
patient,  
notice to  
advocate

**41.—(1)** A physician who issues a certificate of incapacity or a certificate of continuance shall promptly advise the patient of the fact and shall also promptly notify an advocate.

Meeting with  
advocate

(2) The advocate shall promptly meet with the patient and explain to him or her the significance of the certificate and the right to have the issue of the patient's capacity to manage property reviewed by the Board.

Exception

(3) Subsection (2) does not apply if the patient himself or herself refuses to meet with the advocate.

Assistance

(4) At the patient's request, the advocate shall assist him or her in making an application to the Board and in obtaining legal services.

**(34)** Section 42 of the Act, as amended by the Statutes of Ontario, 1983, chapter 75, section 2, is repealed and the following substituted:

**(34)** L'article 42 de la Loi, tel qu'il est modifié par l'article 2 du chapitre 75 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

Application  
to Board for  
review

**42.—(1)** A patient in respect of whom a certificate of incapacity or a notice of continuance has been issued may apply in the prescribed form to have the Board review the issue of his or her capacity to manage property.

Procedure

(2) Except that applications may be made not more frequently than once in any six-month period, sections 33 and 33a of this Act and sections 36 to 41 of the *Consent to Treatment Act, 1991* apply to applications under subsection (1), with necessary modifications.

**(35)** Section 43 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, is repealed.

**(35)** L'article 43 de la Loi, tel qu'il est modifié par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

**(36)** Section 44 of the Act is repealed.

**(36)** L'article 44 de la Loi est abrogé.

**(37)** Sections 46 and 47 of the Act are repealed.

**(37)** Les articles 46 et 47 de la Loi sont abrogés.

**(38)** Sections 49, 50, 51, 52, 53, 54 and 55 of the Act are repealed.

**(38)** Les articles 49, 50, 51, 52, 53, 54 et 55 de la Loi sont abrogés.

**(39)** Section 56 of the Act, as amended by the Statutes of Ontario, 1981, chapter 66, Schedule, is repealed.

**(39)** L'article 56 de la Loi, tel qu'il est modifié par l'annexe du chapitre 66 des Lois de l'Ontario de 1981, est abrogé.

**(40)** Sections 57, 58, 59 and 60 of the Act are repealed.

**(40)** Les articles 57, 58, 59 et 60 de la Loi sont abrogés.

**(41)** Clauses 65 (1) (h), (i), (k) and (l) of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 33, are repealed.

**(41)** Les alinéas 65 (1) (h), (i), (k) et (l) de la Loi, tels qu'ils sont modifiés par l'article 33 du chapitre 64 des Lois de l'Ontario de 1986, sont abrogés.

**(42)** Subsections 29 (3), 29 (9) and 29a (16) of the Act (access to clinical record) apply to a representative whom a person appointed in accordance with section 1b of the Act before the day this Act comes into force, as if the representative had been appointed under sec-

**(42)** Les paragraphes 29 (3), 29 (9) et 29a (16) de la Loi (accès au dossier clinique) s'appliquent au représentant qu'une personne a nommé conformément à l'article 1b de la Loi avant le jour de l'entrée en vigueur de la présente loi, comme si le représentant avait été nommé en vertu de l'article 29b de la Loi,

Transition,  
representa-  
tive

Disposition  
transitoire,  
représentant



tion 29b of the Act, as enacted by subsection 18 (15) of this Act.

Definitions

(43) In subsections (44), (45) and (46),

“new board” means the Consent and Capacity Review Board established by the *Consent to Treatment Act, 1991*; (“Commission”)

“old board” means the review board established by subsection 30 (1) of the *Mental Health Act* as it read on the day before this Act comes into force. (“conseil”)

Transition,  
proceedings

(44) All proceedings before the old board that have not been finally disposed of on the day this Act comes into force shall be dealt with as if they had been made to the new board, subject to subsection (46).

Idem

(45) If a decision of the old board is appealed and the court wishes to exercise its power to refer the matter back for rehearing, it shall refer the matter to the new board.

Exception

(46) If a hearing before the old board has begun on the day this Act comes into force but no decision has yet been rendered, the old board shall complete the hearing and render a decision, and the members of the old board participating in the hearing continue in office for that purpose.

Transition,  
certificate re  
patient

(47) If, before the day this Act comes into force, a certificate of incompetence was issued under section 36 of the Act in respect of a patient, the certificate shall be deemed to be a certificate of incapacity issued under section 36 of the Act, as re-enacted by subsection 18 (31) of this Act.

Idem, out-  
patient

(48) If, before the day this Act comes into force, a certificate of incapacity was issued under section 36 of the Act in respect of an out-patient, the Public Guardian and Trustee is the out-patient's statutory guardian of property as if the guardianship had been created under section 16 of the *Substitute Decisions Act, 1991*.

Idem

(49) An advocate as defined in the *Substitute Decisions Act, 1991* shall meet with the out-patient and explain the statutory guardianship and the out-patient's rights in connection with it.

Idem

(50) A statutory guardianship referred to in subsection (48) is terminated on the second anniversary of the coming into force of this Act, unless an advocate, before that day, makes a statement in writing to the Public Guardian and Trustee and to the statutory guardian, if another person is the statutory

tel qu'il est adopté par le paragraphe 18 (15) de la présente loi.

(43) Les définitions qui suivent s'appliquent aux paragraphes (44), (45) et (46) de la présente loi.

«Commission» La Commission de révision du consentement et de la capacité créée par la *Loi de 1991 sur le consentement au traitement*. («new board»)

«conseil» Le conseil de révision créé par le paragraphe 30 (1) de la loi intitulée *Mental Health Act* («*Loi sur la santé mentale*»), telle qu'elle existait le jour avant l'entrée en vigueur de la présente loi. («old board»)

(44) Les instances introduites devant le conseil qui n'ont pas été réglées de façon définitive le jour de l'entrée en vigueur de la présente loi sont traitées comme si elles avaient été introduites devant la Commission, sous réserve du paragraphe (46).

(45) S'il est interjeté appel d'une décision du conseil et que le tribunal désire exercer son pouvoir de renvoyer l'affaire aux fins d'une nouvelle audience, celui-ci renvoie l'affaire à la Commission.

(46) Si une audience devant le conseil a débuté le jour de l'entrée en vigueur de la présente loi, mais qu'aucune décision n'a encore été rendue, le conseil termine l'audience et rend une décision, et les membres du conseil qui participent à l'audience continuent d'occuper leur charge à cette fin.

(47) Si, avant le jour de l'entrée en vigueur de la présente loi, un certificat d'incapacité a été délivré aux termes de l'article 36 de la Loi à l'égard d'un malade, le certificat est réputé un certificat d'incapacité délivré aux termes de l'article 36 de la Loi, tel qu'il est adopté de nouveau par le paragraphe 18 (31) de la présente loi.

(48) Si, avant le jour de l'entrée en vigueur de la présente loi, un certificat d'incapacité a été délivré aux termes de l'article 36 de la Loi à l'égard d'un malade externe, le tuteur et curateur public est le tuteur légal aux biens du malade externe comme si la tutelle avait été créée en vertu de l'article 16 de la *Loi de 1991 sur la prise de décisions au nom d'autrui*.

(49) Un intervenant au sens de la *Loi de 1991 sur la prise de décisions au nom d'autrui* rencontre le malade externe et lui explique la tutelle légale et ses droits à cet égard.

(50) La tutelle légale visée au paragraphe (48) prend fin le jour du deuxième anniversaire de l'entrée en vigueur de la présente loi à moins qu'un intervenant, avant ce jour, ne remette une déclaration écrite au Tuteur et curateur public, et au tuteur légal s'il s'agit d'une autre personne, attestant qu'il s'est

Définitions

Disposition  
transitoire,  
instances

Idem

Exception

Disposition  
transitoire,  
certificat à  
l'égard d'un  
malade

Idem, malade  
externe

Idem

Idem

guardian, certifying that he or she has complied with subsection (49) and that the out-patient does not object to the statutory guardianship.

Idem, notice  
of continu-  
ance

(51) If a notice of continuance was issued under section 41 of the Act in respect of a patient, before the day this Act comes into force, the Public Guardian and Trustee is the patient's statutory guardian of property as if the guardianship had been created under section 16 of the *Substitute Decisions Act, 1991*.

Idem

(52) A statutory guardianship referred to in subsection (51) is terminated on the day that is six months after the patient's discharge from the psychiatric facility.

#### MENTAL INCOMPETENCY ACT

Repeal

**19.—(1)** The *Mental Incompetency Act* is repealed.

Idem

(2) Section 195 of the *Courts of Justice Act, 1984* and section 35 of the *Equality Rights Statute Law Amendment Act, 1986* are repealed.

Transition,  
committee of  
estate

(3) The committee of the estate appointed, before the day this Act comes into force, for a person who has been declared mentally incompetent shall be deemed to be his or her guardian of property appointed under section 22 of the *Substitute Decisions Act, 1991*, subject to the restrictions contained in the order appointing the committee.

Idem

(4) Subsection (3) also applies to a person appointed under section 39 of the *Mental Incompetency Act* to act on behalf of a person who is incapable of managing his or her affairs.

Idem,  
committee of  
person

(5) The committee of the person appointed, before the day this Act comes into force, for a person who has been declared mentally incompetent shall be deemed to be his or her guardian of the person appointed under section 52 of the *Substitute Decisions Act, 1991*, subject to the restrictions contained in the order appointing the committee.

Idem

(6) A guardianship referred to in subsection (3) or (5) is terminated on the second anniversary of the coming into force of the *Substitute Decisions Act, 1991*, unless the guardian, before that day, files a statement with the Public Guardian and Trustee, in the form provided by the Public Guardian and Trustee.

#### MUNICIPAL ACT

**20.** Clause 192 (c) of the *Municipal Act* is repealed and the following substituted:

conformé au paragraphe (49) et qu'il est convaincu que le malade externe ne s'oppose pas à la tutelle légale.

(51) Si un avis de prorogation de la curatelle a été délivré aux termes de l'article 41 de la Loi à l'égard d'un malade, avant le jour de l'entrée en vigueur de la présente loi, le Tuteur et curateur public est le tuteur légal aux biens du malade comme si la tutelle avait été créée en vertu de l'article 16 de la *Loi de 1991 sur la prise de décisions au nom d'autrui*.

Idem, avis de  
prorogation

(52) La tutelle légale visée au paragraphe (51) prend fin le jour qui tombe six mois après la mise en congé du malade de l'établissement psychiatrique.

Idem

#### LOI SUR L'INCAPACITÉ MENTALE

**19** (1) La loi intitulée *Mental Incompetency Act* («*Loi sur l'incapacité mentale*») est abrogée.

Abrogation

(2) L'article 195 de la loi intitulée *Courts of Justice Act, 1984* («*Loi de 1984 sur les tribunaux judiciaires*») et l'article 35 de la loi intitulée *Equality Rights Statute Law Amendment Act, 1986* sont abrogés.

Idem

(3) Le curateur aux biens nommé, avant le jour de l'entrée en vigueur de la présente loi, pour une personne qui a été déclarée incapable mental est réputé son tuteur aux biens nommé aux termes de l'article 22 de la *Loi de 1991 sur la prise de décisions au nom d'autrui*, sous réserve des restrictions contenues dans l'ordonnance de nomination du curateur.

Disposition  
transitoire,  
curateur aux  
biens

(4) Le paragraphe (3) s'applique également à la personne nommée aux termes de l'article 39 de la *Loi sur l'incapacité mentale* pour agir au nom d'une personne inapte à gérer ses affaires.

Idem

(5) Le curateur à la personne nommé, avant le jour de l'entrée en vigueur de la présente loi, pour une personne qui a été déclarée incapable mental est réputé son tuteur à la personne nommé aux termes de l'article 52 de la *Loi de 1991 sur la prise de décisions au nom d'autrui*, sous réserve des restrictions contenues dans l'ordonnance de nomination du curateur.

Idem, cura-  
teur à la per-  
sonne

(6) La tutelle visée au paragraphe (3) ou (5) prend fin le jour du deuxième anniversaire de l'entrée en vigueur de la *Loi de 1991 sur la prise de décisions au nom d'autrui* à moins que le tuteur, avant cette date, ne dépose une déclaration auprès du Tuteur et curateur public, selon la formule fournie par celui-ci.

Idem

#### LOI SUR LES MUNICIPALITÉS

**20** L'alinéa 192 (c) de la loi intitulée *Municipal Act* («*Loi sur les municipalités*») est abrogé et remplacé par ce qui suit :



- (c) "owner" includes a mortgagee, lessee, tenant, occupant, trustee in whom land is vested, guardian of the property of a minor or of a mentally incapable person, executor, administrator and person entitled to a limited estate or interest in land.

#### POWERS OF ATTORNEY ACT

**21.—**(1) Clause 1 (b) of the *Powers of Attorney Act* is repealed.

(2) Section 2 of the Act is amended by striking out "may be in Form 1 and" in the first line and substituting "for property".

(3) Sections 4 and 5 of the Act are repealed.

(4) Section 5a of the Act, as enacted by the Statutes of Ontario, 1983, chapter 74, section 1, is repealed.

(5) Section 6 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 54, is repealed.

(6) Section 7 of the Act is repealed.

(7) Section 8 of the Act, as amended by the Statutes of Ontario, 1983, chapter 74, section 2, is repealed.

(8) Sections 9 and 10 of the Act are repealed.

(9) Form 1 of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 74, section 3, is repealed.

#### PUBLIC TRUSTEE ACT

**22.—**(1) Section 1 of the *Public Trustee Act* is repealed and the following substituted:

Public  
Guardian  
and Trustee,  
staff

**1.—**(1) The Lieutenant Governor in Council may appoint a member of the bar of Ontario of at least ten years' standing to be Public Guardian and Trustee, may appoint one or more deputies to act for him or her and may appoint such other persons as employees in the office of the Public Guardian and Trustee as are necessary for the purposes of this Act.

Corporation  
sole

(2) The corporation sole known as the Public Trustee is continued under the name of Public Guardian and Trustee.

Idem

(3) The Public Guardian and Trustee has perpetual succession and an official seal, and may sue and be sued in his or her corporate name.

(2) The Act is amended by striking out "Public Trustee" wherever it occurs and substituting in each case "Public Guardian and Trustee".

(3) Section 2 of the Act is repealed and the following substituted:

Powers and  
duties of  
deputy

**2.—**(1) A deputy of the Public Guardian and Trustee has the powers and duties that the Public Guardian and Trustee delegates to him or her.

#### LOI SUR LES PROCURATIONS

**21** (1) L'alinéa 1 (b) de la loi intitulée *Powers of Attorney Act* («*Loi sur les procurations*») est abrogé.

(2) L'article 2 de la Loi est modifié par substitution, à «may be in Form 1 and» à la première ligne, de «for property».

(3) Les articles 4 et 5 de la Loi sont abrogés.

(4) L'article 5a de la Loi, tel qu'il est adopté par l'article 1 du chapitre 74 des Lois de l'Ontario de 1983, est abrogé.

(5) L'article 6 de la Loi, tel qu'il est modifié par l'article 54 du chapitre 64 des Lois de l'Ontario de 1986, est abrogé.

(6) L'article 7 de la Loi est abrogé.

(7) L'article 8 de la Loi, tel qu'il est modifié par l'article 2 du chapitre 74 des Lois de l'Ontario de 1983, est abrogé.

(8) Les articles 9 et 10 de la Loi sont abrogés.

(9) La formule 1 de la Loi, telle qu'elle est adoptée de nouveau par l'article 3 du chapitre 74 des Lois de l'Ontario de 1983, est abrogée.

#### LOI SUR LE CURATEUR PUBLIC

**22** (1) L'article 1 de la loi intitulée *Public Trustee Act* («*Loi sur le Curateur public*») est abrogé et remplacé par ce qui suit :

(2) La Loi est modifiée par substitution, à «Public Trustee» partout où il figure, de «Public Guardian and Trustee».

(3) L'article 2 de la Loi est abrogé et remplacé par ce qui suit :

Absence of Public Guardian and Trustee	(2) If the Public Guardian and Trustee is unable to act because of absence or illness, the deputy who was appointed first shall act in his or her place.	(4) L'article 5 de la Loi est modifié par substitution, à «the Crown Administration of Estates Act, the Charities Accounting Act and any other Act» aux deuxième et troisième lignes, de «any Act».
Vacancy	(3) If the Public Guardian and Trustee dies or resigns the office, the deputy who was appointed first shall act as Public Guardian and Trustee until a successor is appointed.	(5) La Loi est modifiée en outre par adjonction de l'article suivant :
	(4) Section 5 of the Act is amended by striking out "the Crown Administration of Estates Act, the Charities Accounting Act and any other Act" in the second and third lines and substituting "any Act".	
	(5) The Act is further amended by adding the following section:	
Immunity	<b>5.1</b> No proceeding for damages shall be commenced against the Public Guardian and Trustee for anything done or omitted in good faith in connection with his or her powers and duties under an Act.	
	(6) Subsection 10 (1) of the Act is amended by striking out "not exceeding \$2,000 in value" in the second line.	(6) Le paragraphe 10 (1) de la Loi est modifié par suppression de «not exceeding \$2,000 in value» à la deuxième ligne.
	(7) The Act is further amended by adding the following section:	(7) La Loi est modifiée en outre par adjonction de l'article suivant :
Interest	<b>13.1</b> —(1) Subject to the approval of the advisory committee referred to in clause 14 (g), the Public Guardian and Trustee has power to fix the rate of interest to be paid on money in his or her hands.	
Publication	(2) The Public Guardian and Trustee shall publish the interest rate in <i>The Ontario Gazette</i> whenever it is changed.	
	(8) Clause 14 (f) of the Act is repealed.	(8) L'alinéa 14 (f) de la Loi est abrogé.
	(9) Clause 14 (g) of the Act is repealed and the following substituted:	(9) L'alinéa 14 (g) de la Loi est abrogé et remplacé par ce qui suit :
	(g) for constituting a committee for the purposes of section 13.1 and to advise the Public Guardian and Trustee generally on investments and other property management issues;	
	(h) for constituting a committee to advise the Public Guardian and Trustee generally on guardianship matters;	
	(i) for constituting committees to advise the Public Guardian and Trustee generally on other matters;	
	(j) for providing for the remuneration, by fees or otherwise, of the members of the advisory committees.	
	(10) Section 15 of the Act is repealed and the following substituted:	(10) L'article 15 de la Loi est abrogé et remplacé par ce qui suit :
Advisory committees	<b>15.</b> —(1) The members of the advisory committees of the Public Guardian and Trustee are visitors of his or her office.	
Suggestions and recommendations	(2) Each advisory committee may make suggestions and recommendations, in connection with its area of jurisdiction, with regard to the policies of the office of Public Guardian and Trustee.	
Consultation	(3) The Public Guardian and Trustee may consult with the committees on the policies of his or her office.	
Annual reports	(4) Each advisory committee shall make an annual report to the Lieutenant Governor in Council on the performance of its duties and the exercise of its powers.	



(11) The title of the Act is repealed and the following substituted:

(11) Le titre de la Loi est abrogé et remplacé par ce qui suit :

PUBLIC GUARDIAN AND TRUSTEE ACT

SOLICITORS ACT

**23.** Section 28 of the *Solicitors Act* is amended by striking out “or of committee of any person whose estate or property will be chargeable” in the third and fourth lines and substituting “or in the capacity of guardian of property that will be chargeable”.

LOI SUR LES PROCUREURS

**23** L'article 28 de la loi intitulée *Solicitors Act* («*Loi sur les procureurs*») est modifié par substitution, à «or of committee of any person whose estate or property will be chargeable» aux troisième et quatrième lignes, de «or in the capacity of guardian of property that will be chargeable».

TRUSTEE ACT

**24.—**(1) Subsection 36 (4) of the *Trustee Act* is amended by striking out “mentally incompetent person or person of unsound mind” in the fifth and sixth lines and substituting “mentally incapable person”.

LOI SUR LES FIDUCIAIRES

**24** (1) Le paragraphe 36 (4) de la loi intitulée *Trustee Act* («*Loi sur les fiduciaires*») est modifié par substitution, à «mentally incompetent person or person of unsound mind» aux cinquième et sixième lignes, de «mentally incapable person».

(2) Subsection 36 (6) of the Act is amended by striking out “mentally incompetent person or person of unsound mind” in the first and second lines and in the third-last and second-last lines and substituting in each case “or mentally incapable person”.

(2) Le paragraphe 36 (6) de la Loi est modifié par substitution, à «mentally incompetent person or person of unsound mind» aux première et deuxième lignes ainsi qu'aux quinzième et seizième lignes, de «or mentally incapable person».

(3) Subsection 36 (9) of the Act is repealed and the following substituted:

(3) Le paragraphe 36 (9) de la Loi est abrogé et remplacé par ce qui suit :

P.G.T.

(9) Where, however, the Public Guardian and Trustee is the guardian of property of the person to whom money is due, as mentioned in subsections (4) and (6), the money shall be paid to the Public Guardian and Trustee.

Commence-  
ment

**25.** This Act comes into force on the day the *Advocacy Act, 1991* comes into force.

**25** La présente loi entre en vigueur le jour où la *Loi de 1991 sur l'intervention* entre en vigueur.

Entrée en  
vigueur

Short title

**26.** The short title of this Act is the *Consent and Capacity Statute Law Amendment Act, 1991*.

**26** Le titre abrégé de la présente loi est *Loi de 1991 modifiant des lois en ce qui concerne le consentement et la capacité*.

Titre abrégé

CA2 Ont  
XB  
-B56

Bill 111

Private Member's Bill

Projet de loi 111

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 111

**An Act to amend the Legislative Assem-  
bly Act**

**Mr. Arnott**

1st Reading     May 28th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 111

**Loi portant modification de la Loi sur  
l'Assemblée législative**

**M. Arnott**

1<sup>re</sup> lecture     28 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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#### EXPLANATORY NOTE

The Bill would amend the *Legislative Assembly Act* by requiring each member to take an oath that the member will not only be faithful and bear true allegiance to the Queen, but also that he or she will obey the laws of Ontario and Canada and that he or she will conduct himself or herself with integrity in carrying out his or her responsibilities as a member and, subject to his or her own judgment and conscience, seek to represent the views of those who elected him or her. The oath would replace the oath that is set out in the *Constitution Act, 1867*.

The Bill amends only the English version of the *Legislative Assembly Act*. The Legislature has not yet adopted an official French language version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi vise à modifier la *Loi sur l'Assemblée législative* en exigeant des députés qu'ils fassent le serment non seulement d'être fidèles et de porter sincère allégeance à la Reine, mais également de respecter les lois de l'Ontario et du Canada et de se conduire avec intégrité en s'acquittant de leurs responsabilités de député et, eu égard à leurs propres jugement et conscience, de s'efforcer de représenter les vues de leurs commettants. Le serment vise à remplacer celui qui se trouve énoncé dans la *Loi constitutionnelle de 1867*.

Le projet de loi ne modifie que la version anglaise de la *Loi sur l'Assemblée législative*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

## An Act to amend the Legislative Assembly Act

## Loi portant modification de la Loi sur l'Assemblée législative

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Legislative Assembly Act* is amended by adding the following section:**

Members to  
take oath

**24a.**—(1) Every member of the Legislative Assembly shall take and subscribe before the Lieutenant Governor or a person authorized by the Lieutenant Governor an oath in Form 1 before taking his or her seat.

Idem

(2) A member is not required to take and subscribe the oath referred to in section 128 of the *Constitution Act, 1867*.

**2. Section 58 of the Act is amended by striking out "Form 1" in the sixth line and substituting "Form 2".**

**3.**—(1) Subsection 92 (1) of the Act is amended by striking out "Form 2" in the fifth line and substituting "Form 3".

(2) Subsection 92 (2) of the Act is amended by striking out "Form 3" in the fifth line and substituting "Form 4".

**4. Form 1 of the Act, as re-enacted by the Statutes of Ontario, 1986, chapter 64, section 27, is renumbered as Form 2.**

**5. Form 2 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 27, is renumbered as Form 3.**

**6. Form 3 of the Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 27, is renumbered as Form 4.**

**7. The Act is further amended by adding the following Form:**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La loi intitulée *Legislative Assembly Act* («*Loi sur l'Assemblée législative*»), est modifiée par adjonction de l'article suivant :

**2** L'article 58 de la Loi est modifié par substitution, à «Form 1» à la sixième ligne, de «Form 2».

**3** (1) Le paragraphe 92 (1) de la Loi est modifié par substitution, à «Form 2» à la cinquième ligne, de «Form 3».

(2) Le paragraphe 92 (2) de la Loi est modifié par substitution, à «Form 3» à la cinquième ligne, de «Form 4».

**4** Le document «Form 1» de la Loi, tel qu'il est adopté de nouveau par l'article 27 du chapitre 64 des Lois de l'Ontario de 1986, est renuméroté «Form 2».

**5** Le document «Form 2» de la Loi, tel qu'il est modifié par l'article 27 du chapitre 64 des Lois de l'Ontario de 1986, est renuméroté «Form 3».

**6** Le document «Form 3» de la Loi, tel qu'il est modifié par l'article 27 du chapitre 64 des Lois de l'Ontario de 1986, est renuméroté «Form 4».

**7** La Loi est modifiée en outre par adjonction de la formule suivante :

### FORM 1

(Section 24a)

I, ....., do swear (or solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (or the reigning sovereign for the time being), her heirs and successors according to law, that I will obey the laws of Ontario and Canada, and that in carrying out my responsibilities as a member of the Legislative Assembly I will conduct myself with integrity and that, subject to my own judgment and conscience, I will seek to represent the views of my constituents.

So help me God. (omit this phrase in an affirmation)



Commence-  
ment

**8.** This Act comes into force on the day it receives Royal Assent.

**8** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

Short title

**9.** The short title of this Act is the *Legislative Assembly Amendment Act, 1991*.

**9** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur l'Assemblée législative*.

Titre abrégé

LA2 32  
XB  
676

Bill 112

Government Bill

Projet de loi 112

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 112**

**Projet de loi 112**

**An Act to revise the Building Code Act**

**Loi portant révision de la Loi sur le code  
du bâtiment**

**The Hon. D. Cooke**  
Minister of Housing

**L'honorable D. Cooke**  
Ministre du Logement

1st Reading      May 28th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture      28 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



## EXPLANATORY NOTES

The Bill revises the existing *Building Code Act*. The purpose of the revision is to provide for greater flexibility, efficiency and effectiveness in the administration and enforcement of the Act.

The main changes effected by the Bill are as follows:

1. Standards for existing buildings may be established in the building code.
2. The plumbing code is transferred from the *Ontario Water Resources Act* to this Act and the building code.
3. Conditional permits could be issued for any stage of construction even if the proposed construction might contravene some applicable law if certain conditions, as set out in subsection 8 (3), are met.
4. The chief building official may allow the use of equivalent materials, techniques and systems not authorized in the building code, subject to the conditions set out in the building code.
5. The Minister may issue rulings to approve the use of innovative materials, products, systems or services evaluated and approved by such materials evaluation bodies as may be designated in the regulations.
6. The definition of "unsafe" is expanded in relation to buildings.
7. Emergency remedial powers are given to the chief building official in respect of buildings that pose an immediate danger to the health or safety of any person.
8. The Bill provides for a search warrant that does not require the seizure of evidence. This will replace the search warrant currently available under the *Provincial Offences Act*.
9. A permit for a change in use of an existing building is required although no construction is proposed if the change will result in an increase in hazard, as defined in the building code.
10. Fines are increased to a maximum of \$25,000 for a first offence and \$50,000 for a subsequent offence. These amounts are increased to \$50,000 and \$100,000, respectively, for a corporation. For continuing offences the fine is increased to a maximum of \$10,000 per day. Formerly, the fines were a maximum of \$2,000 for all offences except in the case of a corporation where the maximum fine was \$10,000. The former fine for a continuing offence was \$100 per day.

## NOTES EXPLICATIVES

Le projet de loi révisé l'actuelle *Loi sur le code du bâtiment*. Cette révision vise à permettre une application et une exécution plus souples et plus efficaces de la Loi.

Les principaux changements apportés par le projet de loi sont les suivants :

1. Des normes applicables aux bâtiments existants peuvent être établies dans le code du bâtiment.
2. Le code de plomberie pris en application de la *Loi sur les ressources en eau de l'Ontario* sera révoqué et sera pris en application de la présente loi et du code du bâtiment.
3. Des permis conditionnels pourraient être délivrés pour la réalisation de quelque étape que ce soit des travaux de construction, même si les travaux de construction projetés peuvent contrevenir à d'autres lois applicables, s'il est satisfait à certaines conditions qui sont énoncées au paragraphe 8 (3).
4. Le chef du service du bâtiment peut permettre l'emploi de matériaux, techniques, installations et réseaux équivalents et qui ne sont pas autorisés par le code du bâtiment, sous réserve des conditions qui y sont énoncées.
5. Le ministre peut rendre des décisions autorisant l'emploi de nouveaux matériaux, produits, installations ou réseaux évalués et approuvés par les organismes d'évaluation des matériaux que peuvent désigner les règlements.
6. La définition du terme «dangereux» est élargie dans son application aux bâtiments.
7. Des pouvoirs de redressement en cas d'urgence sont conférés au chef du service du bâtiment en ce qui concerne les bâtiments qui présentent un danger immédiat pour la santé ou la sécurité de quiconque.
8. Le projet de loi prévoit des mandats de perquisition qui n'exigent pas la saisie de preuves. Ces mandats viennent remplacer ceux qui peuvent être actuellement obtenus en vertu de la *Loi sur les infractions provinciales*.
9. Un permis d'affectation d'un bâtiment existant à un nouvel usage est requis bien qu'aucune construction ne soit projetée, si ce nouvel usage entraînerait un accroissement du risque tel que le définit le code du bâtiment.
10. L'amende est portée à un maximum de 25 000 \$ s'il s'agit d'une première infraction et à un maximum de 50 000 \$ s'il s'agit d'une infraction subséquente. Dans le cas des personnes morales, ces montants sont portés à un maximum de 50 000 \$ et de 100 000 \$ respectivement. Dans le cas d'infractions continues, l'amende est portée à un maximum de 10 000 \$ par jour. Auparavant, l'amende pouvait atteindre 2 000 \$ pour toute infraction sauf dans le cas des personnes morales où l'amende maximale était de 10 000 \$. Auparavant, l'amende en cas d'infraction continue était de 100 \$ par jour.

## An Act to revise the Building Code Act

## Loi portant révision de la Loi sur le code du bâtiment

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** In this Act,

Definitions

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SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 (1)** Les définitions qui suivent s'appliquent à la présente loi.

Définitions



“building” means,

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto,
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto,
- (c) plumbing not located in a structure, or
- (d) structures designated in the building code; (“bâtiment”)

“building code” means regulations made under section 34; (“code du bâtiment”)

“chief building official” means a chief building official appointed or constituted under section 3 or 4; (“chef du service du bâtiment”)

“construct” means to do anything in the erection, installation, extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere and “construction” has a corresponding meaning; (“construire”, “construction”, “travaux de construction”)

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning; (“démolir”, “démolition”, “travaux de démolition”)

“director” means the person appointed as director under section 2; (“directeur”)

“inspector” means an inspector appointed under section 3, 4 or 32; (“inspecteur”)

“Minister” means the Minister of Housing; (“ministre”)

“municipality” means a city, town, village, township or improvement district; (“municipalité”)

“plumbing” means a drainage system, a venting system and a water system or parts thereof; (“installation de plomberie”)

“regulations” means regulations made under this Act. (“règlements”)

«bâtiment» S’entend de l’un ou l’autre des éléments suivants :

- a) une structure qui occupe une superficie supérieure à dix mètres carrés et qui consiste en un ou des murs, une toiture et un plancher ou en l’un ou l’autre de ces éléments, ou en tout ce qui en tient lieu, y compris l’installation de plomberie, les ouvrages, les accessoires fixes, les installations et les réseaux s’y rattachant,
- b) une structure qui occupe une superficie maximale de dix mètres carrés et qui renferme des installations de plomberie, y compris une installation de plomberie s’y rattachant,
- c) l’installation de plomberie qui ne se trouve pas dans une structure,
- d) les structures désignées dans le code du bâtiment. («building»)

«chef du service du bâtiment» Chef du service du bâtiment nommé ou désigné en vertu de l’article 3 ou 4. («chief building official»)

«code du bâtiment» Les règlements pris en application de l’article 34. («building code»)

«construire» S’entend de toute activité reliée à l’édification, la mise en place, l’agrandissement ou la transformation ou réparation importante d’un bâtiment, y compris la mise en place d’une pièce de construction fabriquée ailleurs ou transportée d’un autre lieu; «construction» et «travaux de construction» ont un sens correspondant. («construct», «construction»)

«démolir» S’entend de toute activité reliée à l’enlèvement d’un bâtiment ou d’une partie importante de celui-ci; «démolition» et «travaux de démolition» ont un sens correspondant. («demolish», «demolition»)

«directeur» La personne nommée à ce poste en vertu de l’article 2. («director»)

«inspecteur» Inspecteur nommé en vertu de l’article 3, 4 ou 32. («inspector»)

«installation de plomberie» S’entend d’un réseau d’évacuation, d’un réseau de ventilation et d’un réseau d’alimentation en eau, ou de parties de ceux-ci. («plumbing»)

«ministre» Le ministre du Logement. («Minister»)

«municipalité» Cité, ville, village, canton ou district en voie d’organisation. («municipality»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

Exclusion	(2) This Act does not apply to structures used directly in the extraction of ore from a mine.	(2) La présente loi ne s'applique pas aux structures qui servent directement à l'extraction du minerai des mines.	Exclusion
Administration	<b>2.</b> —(1) The Minister is responsible for the administration of this Act.	<b>2</b> (1) Le ministre est chargé de l'application de la présente loi.	Application
Director	(2) There shall be a director of the Ontario Buildings Branch who shall be appointed by the Lieutenant Governor in Council.	(2) Le lieutenant-gouverneur en conseil nomme un directeur à la tête de la Direction ontarienne du bâtiment.	Directeur
Enforcement	<b>3.</b> —(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.	<b>3</b> (1) Le conseil de chaque municipalité est chargé de l'exécution de la présente loi dans la municipalité.	Exécution
Chief building official, inspectors	(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the enforcement of this Act in the areas in which the municipality has jurisdiction.	(2) Le conseil de chaque municipalité nomme un chef du service du bâtiment et les inspecteurs nécessaires à l'exécution de la présente loi dans les territoires qui relèvent de la compétence de la municipalité.	Chef du service du bâtiment et inspecteurs
Joint enforcement	(3) The councils of two or more municipalities may enter into an agreement, (a) providing for the joint enforcement of this Act within their respective municipalities; (b) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and (c) providing for the appointment of a chief building official and inspectors.	(3) Les conseils de plusieurs municipalités peuvent, par accord, prévoir : a) l'exécution commune de la présente loi dans leurs municipalités respectives; b) le partage des frais engagés pour l'exécution de la présente loi dans leurs municipalités respectives; c) la nomination d'un chef du service du bâtiment et d'inspecteurs.	Exécution commune
Joint jurisdiction	(4) If an agreement under subsection (3) is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.	(4) Si l'accord prévu au paragraphe (3) est en vigueur, les municipalités ont compétence commune sur leurs territoires.	Compétence commune
County enforcement	(5) The council of a county and of one or more municipalities in the county may enter into an agreement for the enforcement by the county of this Act in the municipalities and for charging the municipalities the whole or part of the cost of enforcement.	(5) Les conseils d'un comté et d'une ou de plusieurs municipalités du comté peuvent conclure un accord prévoyant l'exécution de la présente loi par le comté dans les municipalités et l'imputation totale ou partielle, à ces municipalités, des frais relatifs à l'exécution.	Exécution par le comté
Powers of county	(6) If an agreement under subsection (5) is in effect, the county has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement and shall appoint a chief building official and such inspectors as are necessary for that purpose.	(6) Si l'accord prévu au paragraphe (5) est en vigueur, le comté a compétence pour mettre à exécution la présente loi dans les municipalités qui sont parties à l'accord et nomme un chef du service du bâtiment et les inspecteurs nécessaires à cette fin.	Pouvoirs du comté
Deemed county	(7) The County of Oxford, The District Municipality of Muskoka and every regional municipality, except The Regional Municipality of Sudbury and The Regional Municipality of Haldimand-Norfolk, shall be deemed to be a county for the purposes of this Act.	(7) Pour l'application de la présente loi, sont réputés des comtés le comté d'Oxford, la municipalité de district de Muskoka et toutes les municipalités régionales, sauf celles de Sudbury et de Haldimand-Norfolk.	Assimilation à des comtés
Certificate	(8) The clerk of the municipality or county shall issue a certificate of appointment bearing the clerk's signature or a facsimile of it to the chief building official and each inspector appointed by the municipality or county.	(8) Le secrétaire de la municipalité ou du comté délivre une attestation de nomination portant sa signature ou un fac-similé de celle-ci au chef du service du bâtiment et à chaque inspecteur nommé par la municipalité ou le comté.	Attestation



Provincial enforcement	<b>4.—</b> (1) Ontario is responsible for the enforcement of this Act in a territory without municipal organization.	<b>4</b> (1) L'Ontario est chargée de l'exécution de la présente loi dans les territoires non érigés en municipalités.	Exécution par la province
Agreements	(2) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of costs as is set out in the agreement.	(2) Le conseil d'une municipalité et la Couronne du chef de l'Ontario représentée par le ministre peuvent conclure un accord prévoyant l'exécution de la présente loi par l'Ontario dans la municipalité, sous réserve du versement, à l'égard des frais, de la somme que stipule l'accord.	Accords
Idem	(3) If an agreement under subsection (2) is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality.	(3) Si l'accord prévu au paragraphe (2) est en vigueur, l'Ontario a compétence pour mettre à exécution la présente loi dans la municipalité.	Idem
Inspectors	(4) Inspectors necessary for the enforcement of this Act in the areas in which Ontario has jurisdiction shall be appointed under the <i>Public Service Act</i> .	(4) Les inspecteurs nécessaires à l'exécution de la présente loi dans les territoires dans lesquels l'Ontario a compétence sont nommés en vertu de la loi intitulée <i>Public Service Act</i> (« <i>Loi sur la fonction publique</i> »).	Inspecteurs
Chief building official	(5) The director is the chief building official for the areas in which Ontario has jurisdiction.	(5) Le directeur est le chef du service du bâtiment dans les territoires dans lesquels l'Ontario a compétence.	Chef du service du bâtiment
Certificate	(6) The Deputy Minister of Housing shall issue a certificate of appointment bearing his or her signature or a facsimile of it to the director and each inspector appointed under subsection (4).	(6) Le sous-ministre du Logement délivre une attestation de nomination portant sa signature ou un fac-similé de celle-ci au directeur et à chaque inspecteur nommé en vertu du paragraphe (4).	Attestation
Agreements	<b>5.—</b> (1) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of costs as is set out in the agreement.	<b>5</b> (1) Le conseil d'une municipalité contiguë à un territoire non érigé en municipalité et la Couronne du chef de l'Ontario représentée par le ministre peuvent conclure un accord prévoyant l'exécution de la présente loi par la municipalité dans la partie de ce territoire non érigé en municipalité et sous réserve du versement, à l'égard des frais, de la somme que stipule l'accord.	Accords
Enforcement	(2) The municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement.	(2) La municipalité a compétence pour mettre à exécution la présente loi dans la partie de territoire désignée dans l'accord.	Exécution
Identification	<b>6.</b> The chief building official and inspectors shall carry their certificates of appointment when performing their duties and shall produce them for inspection upon request.	<b>6</b> Le chef du service du bâtiment et les inspecteurs portent sur eux leur attestation de nomination dans l'exercice de leurs fonctions et, sur demande, la présentent aux fins d'examen.	Présentation de l'attestation de nomination
By-laws, regulations	<b>7.</b> The council of a municipality or of a county that has entered into an agreement under subsection 3 (5) may pass by-laws, and the Lieutenant Governor in Council may make regulations, applicable in the area in which the municipality, the county or Ontario, respectively, has jurisdiction for the enforcement of this Act,  (a) prescribing classes of permits under this Act, including permits in respect of any stage of construction or demolition;  (b) providing for applications for permits and requiring the applications to be	<b>7</b> Le conseil d'une municipalité ou d'un comté qui a conclu un accord aux termes du paragraphe 3 (5) et le lieutenant-gouverneur en conseil, pour le territoire dans lequel la municipalité, le comté ou l'Ontario, respectivement, a compétence pour mettre à exécution la présente loi, peuvent par règlement municipal ou règlement, selon le cas :  a) prescrire les catégories de permis prévus par la présente loi, y compris les permis relatifs à quelque étape que ce soit des travaux de construction ou de démolition;  b) prévoir les demandes de permis qui doivent être présentées et exiger que	Règlements municipaux et règlements

accompanied by such plans, specifications, documents and other information as is prescribed;

- (c) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;
- (d) providing for refunds of fees under such circumstances as are prescribed;
- (e) prescribing the time within which notices required by the building code must be given to the chief building official or an inspector;
- (f) prescribing forms respecting permits and applications for permits and providing for their use;
- (g) enabling the chief building official to require that a set of plans of a building or any class of buildings as constructed be filed with the chief building official on completion of the construction under such conditions as may be prescribed in the building code;
- (h) providing for the transfer of permits when land changes ownership;
- (i) requiring the person to whom a permit is issued to erect and maintain fences to enclose the site of the construction or demolition within such areas of the municipality as may be prescribed;
- (j) prescribing the height and description of the fences required under clause (i).

Building  
permits

**8.—(1)** No person shall construct or demolish a building or cause a building to be constructed or demolished in a municipality unless a permit has been issued therefor by the chief building official.

Issue of  
permits

**(2)** The chief building official shall issue a permit under subsection (1) unless,

- (a) the proposed building, construction or demolition will contravene this Act or the building code or any other applicable law;
- (b) the applicant is a builder or vendor as defined in the *Ontario New Home Warranties Plan Act* and is not registered under that Act;

ces demandes soient accompagnées de plans, devis, documents et autres renseignements selon ce qui est prescrit;

- c) exiger l'acquittement de droits s'appliquant aux demandes de permis et à la délivrance de ceux-ci, et en prescrire les montants;
- d) prévoir le remboursement des droits versés dans les situations prescrites;
- e) prescrire le délai dans lequel les avis exigés par le code du bâtiment doivent être donnés au chef du service du bâtiment ou à un inspecteur;
- f) prescrire les formules ayant trait aux permis et aux demandes de permis et prévoir leur utilisation;
- g) habiliter le chef du service du bâtiment à exiger qu'un exemplaire des plans, conformes à l'exécution, d'un bâtiment ou de toute catégorie de bâtiments soit déposé auprès du chef du service du bâtiment dès que les travaux de construction sont achevés, aux conditions que peut prescrire le code du bâtiment;
- h) prévoir la cession de permis lorsqu'un bien-fonds change de propriétaire;
- i) exiger de la personne à qui un permis est délivré qu'elle érige et entretienne des clôtures pour enfermer le chantier de construction ou de démolition, dans les territoires de la municipalité qui peuvent être prescrits;
- j) prescrire la hauteur et les caractéristiques des clôtures exigées aux termes de l'alinéa i).

**8 (1)** Nul ne doit construire ou démolir un bâtiment, ni faire construire ou démolir un bâtiment, dans une municipalité à moins qu'un permis ne lui ait été délivré à cette fin par le chef du service du bâtiment.

Permis de  
construire

**(2)** Le chef du service du bâtiment délivre un permis aux termes du paragraphe (1), sauf dans les cas suivants :

Délivrance de  
permis

- a) le bâtiment projeté ou les travaux de construction ou de démolition projetés contreviendraient à la présente loi ou au code du bâtiment, ou à toute autre loi applicable;
- b) l'auteur de la demande est un constructeur ou un vendeur tels que ces termes sont définis par la loi intitulée *Ontario New Home Warranties Plan Act* («*Loi sur le régime de garanties des logements neufs de l'Ontario*»), mais n'est pas inscrit aux termes de cette loi;



(c) the application for it is incomplete; or

(d) any fees due are unpaid.

Conditional  
permit

(3) Even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if,

(a) compliance with by-laws passed under sections 34 and 37 of the *Planning Act, 1983* and with such other applicable law as may be set out in the building code has been achieved in respect of the proposed building or construction;

(b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and

(c) the applicant and such other persons as the chief building official determines agree in writing with the municipality, the county or the Crown in right of Ontario to,

(i) assume all risk in commencing the construction,

(ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,

(iii) file plans and specifications of the complete building in the time set out in the agreement,

(iv) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and

(v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance with subclause (iv).

Criteria

(4) In considering whether a conditional permit should be granted, the chief building official shall, among other matters, have regard to the potential difficulty in restoring the site to its original state and use if required approvals are not obtained.

c) la demande de permis n'est pas complète;

d) les droits exigibles ne sont pas acquittés.

(3) Même s'il n'a pas été satisfait à toutes les exigences prévues au paragraphe (2) pour l'obtention d'un permis, le chef du service du bâtiment peut délivrer un permis conditionnel autorisant la réalisation d'une étape des travaux de construction si les conditions suivantes sont réunies :

a) les règlements municipaux adoptés en vertu des articles 34 et 37 de la loi intitulée *Planning Act, 1983* («*Loi de 1983 sur l'aménagement du territoire*») et les autres lois applicables que peut préciser le code du bâtiment ont été respectés à l'égard du bâtiment projeté ou des travaux de construction projetés;

b) le chef du service du bâtiment est d'avis que le refus d'accorder un permis conditionnel occasionnerait des retards déraisonnables dans les travaux de construction;

c) l'auteur de la demande et les autres personnes que le chef du service du bâtiment désigne s'engagent, par accord écrit conclu avec la municipalité, le comté ou la Couronne du chef de l'Ontario, à faire tout ce qui suit :

(i) assumer tous les risques en commençant les travaux de construction,

(ii) obtenir toutes les autorisations nécessaires dans le délai énoncé à l'accord ou, à défaut, aussitôt que possible,

(iii) déposer les plans et devis de la totalité du bâtiment dans le délai énoncé à l'accord,

(iv) aux frais de l'auteur de la demande, enlever le bâtiment et remettre l'emplacement dans l'état précisé à l'accord si les autorisations ne sont pas obtenues ou les plans déposés dans le délai énoncé à l'accord,

(v) respecter toute autre condition qu'estime nécessaire le chef du service du bâtiment, y compris le versement d'un cautionnement aux fins de conformité au sous-alinéa (iv).

Permis conditionnels

Critères

(4) Pour établir s'il y a lieu d'accorder un permis conditionnel, le chef du service du bâtiment tient compte, entre autres choses, de l'éventuelle difficulté à rétablir l'emplacement dans son état et son usage primitifs si

## Registration

(5) Any agreement entered into under clause (3) (c) may be registered against the land to which it applies and the municipality, the county or the Province of Ontario, as the case may be, is entitled to enforce its provisions against the owner and, subject to the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

## Enforcement of agreement

(6) If the chief building official determines that a building has not been removed or a site restored as required by an agreement under clause (3) (c), the chief building official may cause the building to be removed and the site restored and for this purpose the chief building official, an inspector and their agents may enter upon the land and into the building governed by the agreement at any reasonable time without a warrant.

## Lien

(7) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the removal of the building and restoration of the site under subsection (6) and the amount shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal taxes.

## Deemed taxes

(8) If the building is in territory without municipal organization, the amount spent on the removal of the building and restoration of the site under subsection (6) shall be deemed to be taxes imposed under section 3 of the *Provincial Land Tax Act* for the purposes of sections 26 and 27 of that Act.

## Referral of plans

(9) Upon reasonable grounds the chief building official may, and upon the request of the Association of Professional Engineers of Ontario or the Ontario Association of Architects the chief building official shall, refer drawings, plans and specifications accompanying applications for permits to those associations for the purpose of determining if the *Professional Engineers Act, 1984* or the *Architects Act, 1984* is being contravened.

## Revocation of permits

(10) Subject to section 25, the chief building official may revoke a permit issued under this Act,

les autorisations exigées ne sont pas obtenues.

(5) Tout accord conclu aux termes de l'alinéa (3) c) peut être enregistré à l'égard du bien-fonds auquel il s'applique et la municipalité, le comté ou la province de l'Ontario, selon le cas, a le droit d'assurer l'exécution des dispositions de cet accord à l'égard du propriétaire et, sous réserve de la loi intitulée *Registry Act* («*Loi sur l'enregistrement des actes*») et de celle intitulée *Land Titles Act* («*Loi sur l'enregistrement des droits immobiliers*»), à l'égard de tout propriétaire ultérieur du bien-fonds.

(6) Si le chef du service du bâtiment établit qu'un bâtiment n'a pas été enlevé ou qu'un emplacement n'a pas été remis en état comme l'exigeait l'accord conclu aux termes de l'alinéa (3) c), il peut faire enlever le bâtiment et faire remettre l'emplacement en état. À cette fin, le chef du service du bâtiment, un inspecteur, ainsi que leurs mandataires, peuvent pénétrer dans le bien-fonds et le bâtiment régis par l'accord à tout moment raisonnable sans être munis d'un mandat.

(7) Si le bâtiment est situé dans une municipalité, la municipalité détient un privilège sur le bien-fonds à raison du montant dépensé pour l'enlèvement du bâtiment et la remise en état de l'emplacement en vertu du paragraphe (6). Ce montant est réputé constituer un impôt municipal et peut être ajouté par le secrétaire de la municipalité au rôle de perception et perçu de la même façon et avec le même traitement préférentiel que les impôts municipaux.

(8) Si le bâtiment est situé dans un territoire non érigé en municipalité, le montant dépensé pour l'enlèvement du bâtiment et la remise en état de l'emplacement en vertu du paragraphe (6) est réputé constituer un impôt établi aux termes de l'article 3 de la loi intitulée *Provincial Land Tax Act* («*Loi sur l'impôt foncier provincial*») pour l'application des articles 26 et 27 de cette loi.

(9) En se fondant sur des motifs raisonnables, le chef du service du bâtiment peut et, sur demande de l'ordre appelé Association of Professional Engineers of Ontario («*Ordre des ingénieurs de l'Ontario*») ou de celui appelé Ontario Association of Architects («*Ordre des architectes de l'Ontario*»), doit soumettre les dessins, les plans et les devis qui accompagnent les demandes de permis à ces ordres pour qu'ils établissent s'il y a contravention à la loi intitulée *Professional Engineers Act, 1984* («*Loi de 1984 sur les ingénieurs*») ou à celle intitulée *Architects Act, 1984* («*Loi de 1984 sur les architectes*»).

(10) Sous réserve de l'article 25, le chef du service du bâtiment peut révoquer un permis

## Enregistrement

## Exécution de l'accord

## Privilège

## Montant réputé un impôt

## Soumission de plans

## Révocation de permis



- (a) if it was issued on mistaken, false or incorrect information;
- (b) if, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief building official, been seriously commenced;
- (c) if the construction or demolition of the building is, in the opinion of the chief building official, substantially suspended or discontinued for a period of more than one year;
- (d) if it was issued in error;
- (e) if the holder requests in writing that it be revoked; or
- (f) if a term of the agreement under clause (3) (c) has not been complied with.

Prohibition

(11) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with this Act and the building code.

Notice of change

(12) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying, filing details with and obtaining the authorization of the chief building official.

Prohibition

(13) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official.

Equivalents

**9.** The chief building official may, subject to such conditions as may be set out in the building code, allow the use of materials, techniques and systems that are not authorized in the building code if, in his or her opinion, the proposed materials, techniques and systems will provide the level of performance required by the building code.

Change of use

**10.**—(1) Even though no construction is proposed, no person shall change the use of a building or part of a building which would result in an increase in hazard as determined under the building code unless a permit has been issued by the chief building official.

délivré aux termes de la présente loi dans les cas suivants :

- a) le permis a été délivré sur la foi de renseignements erronés, faux ou inexacts;
- b) le chef du service du bâtiment est d'avis que six mois après la délivrance du permis, les travaux de construction ou de démolition à l'égard desquels le permis a été délivré n'ont pas réellement commencé;
- c) le chef du service du bâtiment est d'avis que les travaux de construction ou de démolition du bâtiment ont été, en grande partie, suspendus ou abandonnés pendant plus d'un an;
- d) le permis a été délivré par erreur;
- e) le titulaire demande par écrit que son permis soit révoqué;
- f) une condition de l'accord prévue à l'alinéa (3) c) n'a pas été respectée.

(11) Nul ne doit construire ou démolir un bâtiment, ni faire construire ou démolir un bâtiment, si ce n'est conformément à la présente loi et au code du bâtiment.

Interdiction

(12) Nul ne doit effectuer, ni faire effectuer une modification importante à un plan, à un devis, à un document ou à d'autres renseignements sur la foi desquels un permis a été délivré, sans, au préalable, en informer le chef du service du bâtiment, déposer auprès de lui une description détaillée de la modification et obtenir son autorisation.

Avis de modification

(13) Nul ne doit construire ou démolir un bâtiment, ni faire construire ou démolir un bâtiment, si ce n'est conformément aux plans, devis, documents et autres renseignements sur la foi desquels un permis a été délivré ou aux modifications de ces plans, devis, documents ou autres renseignements, autorisées par le chef du service du bâtiment.

Interdiction

**9** Le chef du service du bâtiment peut, sous réserve des conditions qui peuvent être énoncées au code du bâtiment, permettre l'emploi de matériaux, de techniques, d'installations ou de réseaux qui ne sont pas autorisés par le code du bâtiment s'il est d'avis que les matériaux, techniques et installations ou réseaux proposés offriront le niveau de rendement exigé par le code du bâtiment.

Niveau de rendement équivalent

**10** (1) Même si aucuns travaux de construction ne sont projetés, nul ne doit affecter un bâtiment ou une partie de bâtiment à un nouvel usage qui entraînerait un accroissement du risque comme il est établi au code du bâtiment, à moins qu'un permis n'ait été délivré à cette fin par le chef du service du bâtiment.

Nouvel usage

Permit	(2) The chief building official shall issue a permit under subsection (1), unless,	(2) Le chef du service du bâtiment délivre le permis prévu au paragraphe (1), sauf dans les cas suivants :	Permis
	(a) the building if used as proposed would result in a contravention of this Act or the building code or any other applicable law;	a) le bâtiment, s'il était utilisé conformément à l'usage projeté, donnerait lieu à une contravention à la présente loi ou au code du bâtiment, ou à toute autre loi applicable;	
	(b) the application for it is incomplete; or	b) la demande de permis n'est pas complète;	
	(c) any fees due are unpaid.	c) les droits exigibles ne sont pas acquittés.	
Conditions	<b>11.</b> Except as authorized by the building code, no person shall occupy or use or permit to be occupied or used any building or part thereof newly erected or installed unless,	<b>11</b> Sauf dans la mesure autorisée par le code du bâtiment, nul ne doit occuper ou permettre que soit occupé un bâtiment ou une partie de celui-ci nouvellement érigé ou mis en place, ni en faire usage ou permettre qu'il en soit fait usage, à moins que les conditions suivantes ne soient réunies :	Conditions
	(a) notice of the date of completion of the building or part has been given to the chief building official;	a) un avis de la date d'achèvement du bâtiment ou d'une partie de celui-ci a été donné au chef du service du bâtiment;	
	(b) an inspection has been made pursuant to the notice or ten days have elapsed since the later of the service of the notice and the date of completion; and	b) une inspection a été faite conformément à l'avis ou dix jours se sont écoulés depuis la date de signification de l'avis ou depuis la date d'achèvement des travaux, selon le dernier en date de ces événements;	
	(c) any order made by an inspector under section 12 has been complied with.	c) l'ordre donné par un inspecteur en vertu de l'article 12 a été exécuté.	
Inspection	<b>12.—(1)</b> An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting the building or site in respect of which a permit is issued or an application for a permit is made.	<b>12 (1)</b> Un inspecteur peut pénétrer dans un bien-fonds ou dans des bâtiments à tout moment raisonnable sans être muni d'un mandat en vue d'inspecter le bâtiment ou l'emplacement à l'égard duquel un permis est délivré ou une demande de permis est faite.	Inspection
Order	(2) An inspector who finds a contravention of this Act or the building code may make an order directing compliance with this Act or the building code and may require the order to be carried out immediately or within such time as is specified in the order.	(2) L'inspecteur qui constate une contravention à la présente loi ou au code du bâtiment peut donner l'ordre de se conformer à la présente loi ou au code du bâtiment et peut exiger que cet ordre soit exécuté sur-le-champ ou dans le délai qui y est précisé.	Ordre
Service	(3) The order shall be served on the person whom the inspector believes is contravening this Act or the building code.	(3) L'ordre est signifié à la personne que l'inspecteur croit être en contravention à la présente loi ou au code du bâtiment.	Signification
Idem	(4) The order shall contain sufficient information to specify the nature of the contravention and its location.	(4) L'ordre comporte suffisamment de renseignements pour préciser la nature de la contravention et l'endroit où elle est commise.	Idem
Posting	(5) The inspector may post a copy of the order on the site of the construction or demolition.	(5) L'inspecteur peut afficher une copie de l'ordre sur le chantier de construction ou de démolition.	Affichage
Order not to cover	<b>13.—(1)</b> An inspector may make an order prohibiting the covering or enclosing of any part of a building pending inspection.	<b>13 (1)</b> Un inspecteur peut donner un ordre interdisant la couverture ou la fermeture d'une partie de bâtiment tant que l'inspection n'a pas eu lieu.	Ordre de ne pas couvrir un bâtiment



Service	(2) The order shall be served on the person to whom the permit is issued, if any, and on such other persons affected thereby as the inspector determines.	(2) L'ordre est signifié à la personne à laquelle le permis est délivré, le cas échéant, et aux autres personnes intéressées que précise l'inspecteur.	Signification
Posting	(3) The inspector may post a copy of the order on the site of the construction.	(3) L'inspecteur peut afficher une copie de l'ordre sur le chantier de construction.	Affichage
Inspection	(4) An inspection shall be made within a reasonable time after the person to whom the order is made has given notice that the part of the building is ready for inspection.	(4) L'inspection est effectuée dans un délai raisonnable après que la personne visée par l'ordre a donné un avis selon lequel la partie en question du bâtiment est prête à être inspectée.	Inspection
Service	(5) Section 27 does not apply to a notice under subsection (4).	(5) L'article 27 ne s'applique pas à l'avis prévu au paragraphe (4).	Signification
Order to uncover	(6) A chief building official who has reason to believe that part of a building that is covered or enclosed has not been constructed in compliance with this Act or the building code may order the persons responsible for the construction to uncover the part at their own expense for the purpose of an inspection if, <ul style="list-style-type: none"> <li>(a) the part was covered or enclosed contrary to an order made under subsection (1);</li> <li>(b) the notice was not given in the time prescribed by by-law or regulation made under clause 7 (e);</li> <li>(c) a reasonable time was not allowed after the notice was given for an inspection to be carried out; or</li> <li>(d) the part has been constructed without a permit being issued.</li> </ul>	(6) Le chef du service du bâtiment qui est fondé à croire qu'une partie de bâtiment qui est couverte ou enfermée n'a pas été construite conformément à la présente loi ou au code du bâtiment peut ordonner aux personnes responsables des travaux de construction de faire découvrir la partie à leurs frais aux fins d'une inspection dans les cas suivants : <ul style="list-style-type: none"> <li>a) la partie a été couverte ou enfermée contrairement à l'ordre donné en vertu du paragraphe (1);</li> <li>b) l'avis n'a pas été donné dans le délai prescrit par un règlement municipal ou un règlement adopté en vertu de l'alinéa 7 e);</li> <li>c) un délai raisonnable n'a pas été accordé après que l'avis en vue de l'inspection a été donné;</li> <li>d) la partie a été construite sans qu'un permis ait été délivré.</li> </ul>	Ordre de découvrir un bâtiment
Stop work order	<b>14.</b> —(1) If an order made under section 12 or 13 is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official may order that all or any part of the construction or demolition cease.	<b>14</b> (1) Si l'ordre donné en vertu de l'article 12 ou 13 n'est pas exécuté dans le délai qui y est imparti ou, à défaut d'un délai fixé, dans un délai raisonnable, le chef du service du bâtiment peut ordonner la cessation de tout ou partie des travaux de construction ou de démolition.	Ordre de cessation des travaux
Service	(2) The order shall be served on such persons affected thereby as the chief building official determines and a copy shall be posted on the site of the construction or demolition.	(2) L'ordre est signifié aux personnes intéressées que précise le chef du service du bâtiment. Une copie de l'ordre est affichée sur le chantier de construction ou de démolition.	Signification
Timing	(3) The order is effective from the time it is posted under subsection (2).	(3) L'ordre prend effet à partir du moment où il est affiché comme le prévoit le paragraphe (2).	Prise d'effet
Effect of order	(4) If an order to cease construction or demolition is made, no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than work necessary to carry out the order made under section 12 or 13.	(4) Si un ordre de cessation des travaux de construction ou de démolition est donné, nul ne peut accomplir d'acte relatif aux travaux de construction ou de démolition du bâtiment qui font l'objet de l'ordre, sauf s'il s'agit de travaux qui sont nécessaires à l'exécution de l'ordre donné en vertu de l'article 12 ou 13.	Effet de l'ordre
Inspection of unsafe buildings	<b>15.</b> —(1) An inspector may enter upon land and into buildings at any reasonable	<b>15</b> (1) L'inspecteur peut pénétrer dans un bien-fonds et dans des bâtiments à tout	Inspection des bâtiments dangereux

time without a warrant for the purpose of inspecting a building to determine,

- (a) whether the building is unsafe; or
- (b) whether an order made under subsection (3) has been complied with.

Interpretation

(2) A building is unsafe if the building is,

- (a) structurally inadequate or faulty for the purpose for which it is used;
- (b) in a condition that could be hazardous to the health or safety of persons in the normal use of the building, persons outside the building or persons whose access to the building has not been reasonably prevented; or
- (c) in a condition that could result in damage to neighbouring buildings or land.

Order

(3) An inspector who finds that a building is unsafe may make an order setting out the reasons why the building is unsafe and the remedial steps necessary to render the building safe and may require the order to be carried out within the time specified in the order.

Service

(4) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy of the order may be posted on the site of the building.

Order respecting occupancy

(5) If an order of an inspector under subsection (3) is not complied with within the time specified in it, or where no time is specified, within a reasonable time, the chief building official,

- (a) may by order prohibit the use or occupancy of the building; and
- (b) may cause the building to be renovated, repaired or demolished to remove the unsafe condition.

Power of entry

(6) For the purpose of clause (5) (b), the chief building official, an inspector and their agents may enter upon land and into buildings at any reasonable time without a warrant.

Service

(7) The order under clause (5) (a) shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the building.

moment raisonnable sans être muni d'un mandat pour y effectuer l'inspection d'un bâtiment afin d'établir, selon le cas :

- a) si le bâtiment est dangereux;
- b) si un ordre donné en vertu du paragraphe (3) a été exécuté.

(2) Est considéré comme dangereux le bâtiment qui est, selon le cas :

- a) par sa structure même, inadéquat ou défectueux pour l'usage auquel il est destiné;
- b) dans un état tel qu'il pourrait présenter des risques pour la santé ou la sécurité des personnes qui en font un usage normal, de celles qui se trouvent à l'extérieur du bâtiment ou de celles qu'on n'a pas raisonnablement empêchées d'avoir accès à celui-ci;
- c) dans un état susceptible de causer des dommages aux bâtiments ou aux terrains voisins.

Interprétation

Ordre

(3) L'inspecteur qui constate qu'un bâtiment est dangereux peut donner un ordre énonçant les raisons pour lesquelles le bâtiment est dangereux et prescrivant les mesures de redressement nécessaires pour assurer la sécurité du bâtiment. Il peut exiger que l'ordre soit exécuté dans le délai qui y est imparté.

Signification

(4) L'ordre est signifié au propriétaire du bâtiment et à chaque personne qui semble être en possession du bâtiment, ainsi qu'aux autres personnes intéressées que précise le chef du service du bâtiment. Une copie de l'ordre peut être affichée sur l'emplacement du bâtiment.

(5) Si l'ordre donné par un inspecteur en vertu du paragraphe (3) n'est pas exécuté dans le délai qui y est imparté ou, à défaut d'un délai fixé, dans un délai raisonnable, le chef du service du bâtiment peut :

Ordre touchant l'usage ou l'occupation du bâtiment

- a) d'une part, interdire, par ordre, l'usage ou l'occupation du bâtiment;
- b) d'autre part, faire rénover, réparer ou démolir le bâtiment pour mettre fin à la situation dangereuse.

(6) Pour l'application de l'alinéa (5) b), le chef du service du bâtiment, un inspecteur, ainsi que leurs mandataires, peuvent pénétrer dans le bien-fonds et dans les bâtiments à tout moment raisonnable, sans être munis d'un mandat.

Pouvoir de pénétrer dans des locaux

(7) L'ordre prévu à l'alinéa (5) a) est signifié au propriétaire du bâtiment et à chaque personne qui semble être en possession du bâtiment, ainsi qu'aux autres personnes intéressées que précise le chef du service du

Signification



## Timing

(8) The order under clause (5) (a) is effective from the time it is posted.

## Municipal lien

(9) If the building is in a municipality, the municipality shall have a lien on the land for the amount spent on the renovation, repair or demolition under clause (5) (b) and the amount shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same manner and with the same priorities as municipal taxes.

## Deemed taxes

(10) If the building is in territory without municipal organization, the amount spent on the renovation, repair or demolition under clause (5) (b) shall be deemed to be taxes imposed under section 3 of the *Provincial Land Tax Act* for the purposes of sections 26 and 27 of that Act.

## Entry to dwellings

**16.**—(1) Despite sections 8, 12 and 15, an inspector shall not enter or remain in any room or place actually being used as a dwelling unless,

- (a) the consent of the occupier or a warrant issued under this Act is obtained;
- (b) the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person;
- (c) the entry is necessary to terminate a danger under subsection 17 (3); or
- (d) the requirements of subsection (2) are met and the entry is necessary either to remove a building or restore a site under subsection 8 (6) or to remove an unsafe condition under clause 15 (5) (b).

## Notice

(2) Within a reasonable time before entering the room or place for a purpose described in clause (1) (d), the inspector shall serve the occupier with notice of his or her intention to enter it.

## Emergency order

**17.**—(1) If upon inspection of a building an inspector is satisfied that the building poses an immediate danger to the health or safety of any person, the chief building official may make an order containing particulars of the dangerous conditions and requiring remedial repairs or other work to be carried out immediately to terminate the danger.

bâtiment. Une copie de l'ordre est affichée sur l'emplacement du bâtiment.

(8) L'ordre prévu à l'alinéa (5) a) prend effet à partir du moment où il est affiché.

(9) Si le bâtiment est situé dans une municipalité, la municipalité détient un privilège sur le bien-fonds à raison du montant dépensé pour effectuer les travaux de rénovation, de réparation ou de démolition en vertu de l'alinéa (5) b). Ce montant est réputé constituer un impôt municipal et peut être ajouté par le secrétaire de la municipalité au rôle de perception et perçu de la même façon et selon le même traitement préférentiel que les impôts municipaux.

(10) Si le bâtiment est situé dans un territoire non érigé en municipalité, le montant dépensé pour effectuer les travaux de rénovation, de réparation ou de démolition en vertu de l'alinéa (5) b) est réputé constituer un impôt établi aux termes de l'article 3 de la *Loi sur l'impôt foncier provincial* pour l'application des articles 26 et 27 de cette loi.

**16** (1) Malgré les articles 8, 12 et 15, un inspecteur ne peut pénétrer, ni demeurer dans une pièce ou dans un lieu servant effectivement de logement, sauf dans les cas suivants :

- a) le consentement de l'occupant ou un mandat décerné en vertu de la présente loi a été obtenu;
- b) le laps de temps nécessaire à l'obtention d'un mandat ou à l'obtention du consentement de l'occupant présenterait un danger immédiat pour la santé ou la sécurité de quiconque;
- c) l'entrée est nécessaire pour l'élimination d'un danger en vertu du paragraphe 17 (3);
- d) il est satisfait aux exigences du paragraphe (2) et l'entrée est nécessaire soit pour enlever un bâtiment ou remettre en état un emplacement en vertu du paragraphe 8 (6), soit pour mettre fin à une situation dangereuse en vertu de l'alinéa 15 (5) b).

(2) Dans un délai raisonnable, l'inspecteur signifie à l'occupant de la pièce ou du lieu un préavis de son intention d'y pénétrer à une des fins précisées à l'alinéa (1) d).

**17** (1) Si, au cours de l'inspection d'un bâtiment, un inspecteur acquiert la conviction que le bâtiment présente un danger immédiat pour la santé ou la sécurité de quiconque, le chef du service du bâtiment peut exiger, au moyen d'un ordre donnant des précisions sur la situation dangereuse, l'exécution immédiate de travaux de réparation ou autres en vue d'écarter le danger.

Prise d'effet

Privilège de la municipalité

Montant réputé un impôt

Entrée dans des logements

Préavis

Ordre de prise de mesures d'urgence

Service	(2) The order shall be served on the owner and each person apparently in possession of the building and such other persons affected thereby as the chief building official determines and a copy shall be posted on the site of the building.	(2) L'ordre est signifié au propriétaire du bâtiment et à chaque personne qui semble être en possession du bâtiment, ainsi qu'aux autres personnes intéressées que précise le chef du service du bâtiment. Une copie de l'ordre est affichée sur l'emplacement du bâtiment.	Signification
Emergency powers	(3) After making an order under subsection (1), the chief building official may, either before or after the order is served, take any measures necessary to terminate the danger and, for this purpose, the chief building official, an inspector and their agents may at any time enter upon the land and into the building in respect of which the order was made without a warrant.	(3) Après avoir donné un ordre en vertu du paragraphe (1), le chef du service du bâtiment peut, avant la signification de l'ordre ou après, prendre les mesures nécessaires pour écarter le danger. Pour ce faire, le chef du service du bâtiment, un inspecteur, ainsi que leurs mandataires, peuvent à tout moment pénétrer dans le bien-fonds et dans le bâtiment qui sont visés par l'ordre, sans être munis d'un mandat.	Pouvoirs en cas d'urgence
Service	(4) If the order was not served before measures were taken to terminate the danger, the chief building official shall serve copies of the order in accordance with subsection (2) as soon as practicable after the measures have been taken and each copy of the order shall have attached to it a statement by the chief building official describing the measures taken and providing details of the amount spent in taking the measures.	(4) Si l'ordre n'a pas été signifié avant que des mesures ne soient prises pour écarter le danger, le chef du service du bâtiment signifie des copies de l'ordre conformément au paragraphe (2), aussitôt que possible après que ces mesures ont été prises. À chaque copie de l'ordre est jointe une déclaration du chef du service du bâtiment faisant état des mesures prises et donnant le détail des dépenses engagées pour ces mesures.	Signification
Service of statement	(5) If the order was served before the measures were taken, the chief building official shall serve a copy of the statement mentioned in subsection (4) in accordance with subsection (2) as soon as practicable after the measures have been taken.	(5) Si l'ordre a été signifié avant que les mesures ne soient prises, le chef du service du bâtiment signifie une copie de la déclaration visée au paragraphe (4), conformément au paragraphe (2), aussitôt que possible après que ces mesures ont été prises.	Signification de la déclaration
Application to court	(6) As soon as practicable after subsections (4) and (5) have been complied with, the chief building official shall apply to a judge of the Ontario Court (General Division) for an order confirming the order made under subsection (1) and the judge shall hold a hearing for that purpose.	(6) Aussitôt que possible après que les paragraphes (4) et (5) sont respectés, le chef du service du bâtiment présente à un juge de la Cour de l'Ontario (Division générale) une requête en vue d'obtenir une ordonnance confirmant l'ordre donné en vertu du paragraphe (1). Le juge qui est saisi de la requête tient une audience à ce sujet.	Requête présentée au tribunal
Powers of judge	(7) The judge in disposing of an application under subsection (6) shall,  (a) confirm, modify or rescind the order; and  (b) determine whether the amount spent on measures to terminate the danger may be recovered in whole, in part or not at all.	(7) Le juge chargé de statuer sur une requête présentée aux termes du paragraphe (6) :  a) confirme, modifie ou annule l'ordre;  b) établit si le montant des dépenses engagées dans le cadre des mesures prises pour écarter le danger peut être recouvré en totalité ou en partie, ou s'il est irrécouvrable.	Pouvoirs du juge
Order final	(8) The disposition under subsection (7) is final.	(8) La décision prévue au paragraphe (7) est définitive.	Ordonnance définitive
Municipal lien	(9) If the building is in a municipality, the amount determined by the judge to be recoverable shall be a lien on the land and shall be deemed to be municipal taxes and may be added by the clerk of the municipality to the collector's roll and collected in the same	(9) Si le bâtiment est situé dans une municipalité, le montant que le juge établit comme étant recouvrable représente un privilège sur le bien-fonds et est réputé constituer un impôt municipal. Il peut être ajouté par le secrétaire de la municipalité au rôle de perception et perçu de la même façon et selon le	Privilège de la municipalité



manner and with the same priorities as municipal taxes.

(10) If the building is in territory without municipal organization, the amount determined by the judge to be recoverable shall be deemed to be taxes imposed under section 3 of the *Provincial Land Tax Act* for the purposes of sections 26 and 27 of that Act.

**18.**—(1) For the purposes of an inspection under this Act, an inspector may,

- (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the building or any part thereof;
- (b) inspect and remove documents or things relevant to the building or part thereof for the purpose of making copies or extracts;
- (c) require information from any person concerning a matter related to a building or part thereof;
- (d) be accompanied by a person who has special or expert knowledge in relation to a building or part thereof;
- (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and
- (f) order any person responsible for the construction to take and supply at that person's expense such tests and samples as are specified in the order.

(2) The inspector shall divide the sample taken under clause (1) (e) into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

(3) If an inspector takes a sample under clause (1) (e) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

(4) An inspector shall provide a receipt for any document or thing removed under clause (1) (b) and shall promptly return them after the copies or extracts are made.

même traitement préférentiel que les impôts municipaux.

(10) Si le bâtiment est situé dans un territoire non érigé en municipalité, le montant établi par le juge comme étant recouvrable est réputé constituer un impôt établi aux termes de l'article 3 de la *Loi sur l'impôt foncier provincial* pour l'application des articles 26 et 27 de cette loi.

**18** (1) Aux fins d'une inspection effectuée en vertu de la présente loi, l'inspecteur peut :

- a) exiger que lui soient présentés, aux fins d'inspection, des documents ou d'autres choses qui peuvent se rapporter au bâtiment ou à toute partie de celui-ci, y compris des dessins ou des devis;
- b) examiner et saisir des documents ou d'autres choses qui se rapportent au bâtiment ou à une partie de celui-ci pour en tirer des copies ou des extraits;
- c) exiger des renseignements de quiconque concernant toute question reliée à un bâtiment ou à une partie de celui-ci;
- d) se faire accompagner de quiconque possède des connaissances particulières ou spécialisées sur un bâtiment ou une partie de celui-ci;
- e) seul ou en collaboration avec quiconque possède des connaissances particulières ou spécialisées pertinentes, procéder aux examens ou aux essais, prélever les échantillons ou prendre les photos qui sont nécessaires à l'inspection;
- f) ordonner à toute personne responsable des travaux de construction de procéder aux essais et de fournir les échantillons que précise l'ordre, à ses propres frais.

(2) L'inspecteur divise en deux parties l'échantillon prélevé en vertu de l'alinéa (1) e) et en remet une partie à la personne auprès de laquelle l'échantillon a été prélevé, si celle-ci le demande au moment du prélèvement et si elle fournit les moyens nécessaires pour ce faire.

(3) Si un inspecteur prélève un échantillon en vertu de l'alinéa (1) e) sans le diviser en deux parties, une copie de tout rapport portant sur l'échantillon est remise à la personne auprès de laquelle l'échantillon a été prélevé.

(4) L'inspecteur fait remise d'un récépissé des documents ou autres choses saisis en vertu de l'alinéa (1) b) et les restitue promp-

Montant  
réputé un  
impôt

Pouvoirs des  
inspecteurs

Échantillons

Idem

Récépissé

Deemed  
taxes

Powers of  
inspector

Samples

Idem

Receipt

Evidence	(5) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals.	(5) Les copies ou extraits qu'une personne a tirés des documents et autres choses qui ont été saisis en vertu du présent article et que cette personne certifie conformes aux originaux sont admissibles en preuve dans la même mesure que les originaux et ont la même valeur probante que ceux-ci.	Preuves
Obstruction	<b>19.</b> —(1) No person shall hinder or obstruct, or attempt to hinder or obstruct, a chief building official or inspector in the exercise of a power or the performance of a duty under this Act.	<b>19</b> (1) Nul ne doit gêner ou entraver, ni tenter de gêner ou d'entraver le chef du service du bâtiment ou l'inspecteur dans l'exercice de tout pouvoir ou de toute fonction que leur confère la présente loi.	Entrave
Occupied dwellings	(2) A refusal of consent to enter or remain in a place actually used as a dwelling is not hindering or obstructing within the meaning of subsection (1) unless the inspector is acting under a warrant issued under this Act or in the circumstances described in clauses 16 (1) (b), (c) or (d).	(2) Sauf si l'inspecteur agit en vertu d'un mandat qui lui est décerné en vertu de la présente loi ou dans les circonstances précisées à l'alinéa 16 (1) b), c) ou d), le refus de laisser entrer ou demeurer l'inspecteur dans un lieu servant effectivement de logement ne constitue ni une gêne, ni une entrave au sens du paragraphe (1).	Logements occupés
Assistance	(3) Every person shall assist any entry, inspection, examination, testing or inquiry by an inspector or chief building official in the exercise of a power or performance of a duty under this Act.	(3) Toute personne doit faciliter l'entrée, l'inspection, les examens, les essais ou l'enquête de l'inspecteur ou du chef du service du bâtiment dans l'exercice de tout pouvoir ou de toute fonction que leur confère la présente loi.	Aide
Requirements	(4) No person shall neglect or refuse, (a) to produce any documents, drawings, specifications or things required by an inspector under clause 18 (1) (a) or (e); or (b) to provide any information required under clause 18 (1) (c).	(4) Nul ne doit négliger ou refuser : a) de présenter les documents, dessins, devis ou autres choses qu'exige l'inspecteur en vertu de l'alinéa 18 (1) a) ou e); b) de fournir les renseignements exigés en vertu de l'alinéa 18 (1) c).	Obligations
Prohibition	<b>20.</b> No person shall remove the copy of any order posted under this Act unless authorized by an inspector or obstruct the visibility of an order.	<b>20</b> Nul ne doit enlever la copie d'un ordre affichée aux termes de la présente loi, à moins d'y être autorisé par un inspecteur, ni la rendre moins visible.	Interdiction
Warrant	<b>21.</b> —(1) If a justice of the peace is satisfied by information upon oath that there is reasonable and probable ground to believe that, (a) an offence under this Act has been committed; and (b) entry into and search of any lands and buildings will afford evidence as to the commission of the offence,  the justice of the peace may issue a warrant in the form prescribed authorizing an inspector named in the warrant to enter and search the land and building specified in the warrant and, upon giving a receipt therefor, to remove from the land or building any document or thing that may afford evidence of the offence for the purpose of making copies or extracts.	<b>21</b> (1) Le juge de paix qui est convaincu, sur la foi d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables et probables de croire : a) d'une part, qu'une infraction à la présente loi a été commise; b) d'autre part, qu'une perquisition sur tout bien-fonds et dans tout bâtiment fournira des preuves de la commission de l'infraction,  peut décerner un mandat rédigé selon la formule prescrite qui autorise l'inspecteur qui y est nommé à perquisitionner sur le bien-fonds et dans le bâtiment qui y sont précisés et, sur remise d'un récépissé à cet effet, à y saisir tout document ou toute autre chose susceptible de fournir des preuves de l'infraction pour en tirer des copies ou des extraits.	Mandat



Police officers	(2) An inspector acting under the authority of a warrant issued under this section may call on police officers for assistance and to use force if necessary in the execution of the warrant.	(2) L'inspecteur qui agit en vertu d'un mandat décerné en vertu du présent article peut demander l'aide d'agents de police et, s'il y a lieu, recourir à la force aux fins de l'exécution du mandat.	Agents de police
Execution	(3) A warrant issued under this section shall be executed at reasonable times as specified in the warrant and shall state the date upon which it expires, which shall be a date not later than fifteen days after it is issued.	(3) Le mandat décerné en vertu du présent article est exécuté aux heures raisonnables qui y sont indiquées et énonce la date à laquelle il devient caduc, laquelle ne peut être postérieure au quinzième jour qui suit sa délivrance.	Exécution
No notice	(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the land.	(4) Le juge de paix peut recevoir une demande de mandat en vertu du présent article et l'examiner sans que le propriétaire ou l'occupant du bien-fonds en soit avisé et sans que l'un ou l'autre soient présents lors de cet examen.	Avis non requis
Documents	(5) An inspector shall promptly return any documents or things removed under this section after the copies or extracts are made.	(5) L'inspecteur restitue promptement les documents ou autres choses saisis en vertu du présent article après que des copies ou des extraits en ont été tirés.	Documents
Copies	(6) Copies of or extracts from documents and things removed under this section and certified as being true copies of or extracts from the originals by the person who made them are admissible in evidence to the same extent as and have the same evidentiary value as the originals.	(6) Les copies ou extraits qu'une personne a tirés des documents et autres choses qui ont été saisis en vertu du présent article et que cette personne certifie conformes aux originaux sont admissibles en preuve dans la même mesure que les originaux et ont la même valeur probante que ceux-ci.	Copies
Review	<b>22.</b> —(1) The chief building official may review and amend or rescind an order made by an inspector.	<b>22</b> (1) Le chef du service du bâtiment peut réexaminer et modifier ou annuler tout ordre donné par un inspecteur.	Révision
Powers	(2) A chief building official may exercise any of the powers or perform any of the duties of an inspector.	(2) Le chef du service du bâtiment peut exercer les pouvoirs ou les fonctions d'un inspecteur.	Pouvoirs
Building Code Commission	<b>23.</b> —(1) The Building Code Commission is continued under the name Building Code Commission in English and Commission du code du bâtiment in French and shall be composed of those persons appointed by the Lieutenant Governor in Council.	<b>23</b> (1) La commission appelée Building Code Commission est maintenue sous le nom de Commission du code du bâtiment en français et sous le nom de Building Code Commission en anglais. Elle se compose des membres que nomme le lieutenant-gouverneur en conseil.	Commission du code du bâtiment
Chair	(2) The Lieutenant Governor in Council may designate one of the members as chair and one or more of the members as vice-chair.	(2) Le lieutenant-gouverneur en conseil peut désigner l'un des membres de la Commission pour assumer les fonctions de président et un ou plusieurs autres pour assumer celles de vice-président.	Président
Eligibility	(3) No member of the Commission shall be in the public service of Ontario or an employee of a municipality.	(3) Aucun membre de la Commission ne peut appartenir à la fonction publique de l'Ontario, ni être employé par une municipalité.	Admissibilité
Remuneration	(4) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.	(4) Les membres de la Commission reçoivent la rémunération et les indemnités que peut fixer le lieutenant-gouverneur en conseil.	Rémunération
Quorum	(5) Three members of the Commission constitute a quorum.	(5) Trois membres de la Commission constituent le quorum.	Quorum
Disputes	<b>24.</b> —(1) If there is a dispute between an applicant for a permit or holder of a permit or a person to whom an order is given and	<b>24</b> (1) En cas de différend opposant le chef du service du bâtiment ou l'inspecteur à l'auteur d'une demande de permis, le titu-	Différends

the chief building official or an inspector, any party to the dispute may apply to the Building Code Commission for the resolution of any issue involving,

- (a) the interpretation of the technical requirements of the building code; or
- (b) the sufficiency of compliance with the technical requirements of the building code.

Hearing

(2) The Building Code Commission shall hold a hearing and shall notify the parties to the dispute of the hearing.

Powers

(3) The Building Code Commission shall by order determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief building official.

Decision final

(4) The decision of the Building Code Commission is final.

Restrictions on members

(5) Members of the Building Code Commission holding a hearing shall not,

- (a) take part before the hearing in any investigation or consideration of the subject-matter of the hearing; or
- (b) communicate directly or indirectly in relation to the subject-matter of the hearing with any person unless all parties are given notice and allowed to participate.

Independent advice

(6) Despite subsection (5), members of the Building Code Commission may seek independent legal or technical advice but the nature of the advice shall be made known to the parties in order that they may make submissions.

Evidence

(7) The findings of fact at a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Restriction

(8) Members of the Building Code Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing.

Idem

(9) Except with the consent of the parties, no decision of the Building Code Commission shall be given unless all members present throughout the hearing participate in the decision.

Release of evidence

(10) Documents and things put in evidence at the hearing shall, upon the request

laire d'un permis ou la personne visée par un ordre, l'une ou l'autre partie au différend peut demander, par voie de requête, à la Commission du code du bâtiment de trancher tout point portant, selon le cas :

- a) sur l'interprétation des exigences techniques du code du bâtiment;
- b) sur la question de savoir si les exigences techniques du code du bâtiment sont suffisamment observées.

(2) La Commission du code du bâtiment tient une audience et avise les parties au différend de la tenue de l'audience.

Audience

(3) La Commission du code du bâtiment tranche, par voie d'ordonnance, le différend et, à cette fin, peut substituer son avis à celui de l'inspecteur ou du chef du service du bâtiment.

Pouvoirs

(4) La décision de la Commission du code du bâtiment est définitive.

Décision définitive

(5) Les membres de la Commission du code du bâtiment qui tiennent une audience ne peuvent :

Restrictions s'appliquant aux membres

- a) ni prendre part, avant l'audience, à une enquête ou à un examen portant sur l'objet de l'audience;
- b) ni communiquer directement ou indirectement avec qui que ce soit au sujet de l'objet de l'audience, sauf si toutes les parties en sont avisées et sont autorisées à participer à cette communication.

(6) Malgré le paragraphe (5), les membres de la Commission du code du bâtiment peuvent solliciter les conseils juridiques ou techniques de personnes indépendantes; toutefois, la nature de ces conseils est communiquée aux parties pour leur permettre de présenter des observations à ce propos.

Conseils de personnes indépendantes

(7) Lors d'une audience, les conclusions de fait sont exclusivement fondées sur les preuves admissibles ou sur les questions dont il a pu être pris connaissance aux termes des articles 15 et 16 de la loi intitulée *Statutory Powers Procedure Act* («Loi sur l'exercice des compétences légales»).

Preuves

(8) Les membres de la Commission du code du bâtiment ne prennent part à la décision que celle-ci rend à l'issue de l'audience que s'ils ont assisté à toute l'audience.

Restriction

(9) Sauf si les parties y consentent, aucune décision de la Commission du code du bâtiment n'est rendue sans la participation de l'ensemble des membres qui ont assisté à toute l'audience.

Idem

(10) Les documents et autres choses présentés en preuve à l'audience doivent, à la

Remise des éléments de preuve



of the person who produced them, be released by the Building Code Commission to that person within a reasonable time after the matter in issue has been finally determined.

Appeal

**25.**—(1) Any person who considers themselves aggrieved by an order or decision made by an inspector or chief building official under this Act or the regulations, except a decision not to issue a conditional permit under subsection 8 (3), may, within twenty days after the order or decision is made, appeal the order or decision to a judge of the Ontario Court (General Division).

Extension of time

(2) A judge to whom an appeal is made may, upon such conditions as the judge considers appropriate, extend the time for making the appeal before or after the time set out in subsection (1), if the judge is satisfied that there is reasonable grounds for the appeal and for applying for the extension.

Effect of appeal

(3) If an appeal is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated.

Powers of judge

(4) If an appeal is made under this section, the judge shall hold a hearing and may rescind or affirm the order or decision of the inspector or chief building official or take such action as the judge considers the inspector or chief building official ought to take in accordance with this Act and the regulations and, for such purpose, may substitute his or her opinion for that of the inspector or chief building official.

Reference to Commission

(5) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with the technical requirements of the building code to the Building Code Commission for a hearing and report to the judge.

Procedure

(6) The procedure on the reference shall be the same as on an application under section 24.

When order effective

(7) Upon application without notice, a judge may order that the order or decision appealed from be not stayed pending the appeal but shall take effect immediately on such terms as are just if, in his or her opinion, such action is necessary for public safety and would not make the appeal meaningless.

Further appeal

**26.**—(1) A party to the hearing before the judge of the Ontario Court (General

demande de la personne qui les a produits, lui être remis par la Commission du code du bâtiment dans un délai raisonnable après que la question en litige a été tranchée de façon définitive.

Appel

**25** (1) Quiconque s'estime lésé par un ordre donné ou une décision prise par un inspecteur ou le chef du service du bâtiment en vertu de la présente loi ou des règlements, sauf s'il s'agit d'un refus de délivrer un permis conditionnel aux termes du paragraphe 8 (3), peut, dans les vingt jours qui suivent l'ordre ou la décision, interjeter appel de l'ordre ou de la décision devant un juge de la Cour de l'Ontario (Division générale).

Prorogation du délai

(2) Le juge devant lequel l'appel est interjeté peut, aux conditions qu'il estime appropriées, proroger le délai prévu à cet effet, avant ou après l'expiration du délai imparti au paragraphe (1), s'il est convaincu que l'appel et la demande de prorogation du délai sont fondés sur des motifs raisonnables.

Effet de l'appel

(3) L'appel interjeté en vertu du présent article à l'égard d'une affaire dans laquelle une question est en instance devant la Commission du code du bâtiment met fin à l'instance devant cette dernière.

Pouvoirs du juge

(4) Si un appel est interjeté en vertu du présent article, le juge tient une audience et peut infirmer ou confirmer l'ordre ou la décision de l'inspecteur ou du chef du service du bâtiment, ou prendre la mesure qui, selon lui, aurait dû être prise par l'un ou l'autre de ceux-ci conformément à la présente loi et aux règlements. À cette fin, le juge peut substituer son avis à celui de l'inspecteur ou du chef du service du bâtiment.

Renvoi à la Commission

(5) Le juge peut saisir la Commission du code du bâtiment de tout point ayant trait à l'interprétation des exigences techniques du code du bâtiment ou à la question de savoir si les exigences techniques du code du bâtiment sont suffisamment observées afin qu'elle tienne une audience et présente un rapport à ce sujet au juge.

Procédure

(6) La procédure en cas de renvoi est la même que celle prévue pour les requêtes présentées en vertu de l'article 24.

Moment où l'ordre ou la décision prend effet

(7) Sur présentation d'une requête sans préavis, le juge peut ordonner qu'il ne soit pas sursis à l'exécution de l'ordre ou de la décision porté en appel jusqu'à ce qu'il soit statué sur l'appel et que l'ordre ou la décision prenne effet immédiatement aux conditions qui sont justes s'il est d'avis que cette mesure s'impose pour la sécurité publique et qu'elle n'enlèverait pas sa signification à l'appel.

Nouvel appel

**26** (1) Toute partie à l'audience tenue devant le juge de la Cour de l'Ontario (Division générale) aux termes de l'article 25

Division) under section 25 may appeal from the decision to the Divisional Court.

Minister represented

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of court

(3) An appeal under this section may be made on any question that is not a question of fact alone and the court may,

- (a) confirm or alter the decision of the judge;
- (b) direct the inspector or chief building official to do any act he or she is authorized to do under this Act;
- (c) refer the matter back to the judge for reconsideration; or
- (d) substitute its opinion for that of the inspector or chief building official or the judge.

Service

**27.**—(1) A notice or order required by this Act to be served may be served personally or by registered mail sent to the last known address of the person to whom notice is to be given or to that person's agent for service.

Idem

(2) If a notice or order is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom the notice or order is given or that person's agent for service establishes that, acting in good faith, through absence, accident, illness or other unintentional cause the notice was not received until a later date.

Building Materials Evaluation Commission

**28.**—(1) The Building Materials Evaluation Commission is continued under the name Building Materials Evaluation Commission in English and Commission d'évaluation des matériaux de construction in French and shall be composed of those persons appointed by the Lieutenant Governor in Council.

Chair

(2) The Lieutenant Governor in Council may designate one of the members as chair and one of the members as vice-chair.

Remuneration

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Powers and duties

(4) The Building Materials Evaluation Commission may,

- (a) conduct or cause to be conducted research into and the examination of

peut interjeter appel de la décision devant la Cour divisionnaire.

(2) Le ministre a le droit d'être entendu, par l'entremise d'un avocat ou autrement, aux débats d'un appel interjeté en vertu du présent article.

Représentation du ministre

(3) L'appel prévu au présent article est recevable s'il porte sur une question qui n'est pas seulement une question de fait et la Cour peut, selon le cas :

Pouvoirs de la Cour

- a) confirmer ou modifier la décision du juge;
- b) enjoindre à l'inspecteur ou au chef du service du bâtiment d'accomplir tout acte qu'il leur est permis d'accomplir en vertu de la présente loi;
- c) renvoyer la question au juge pour qu'il la reconsidère;
- d) substituer son avis à celui de l'inspecteur, du chef du service du bâtiment ou du juge.

**27** (1) L'avis ou l'ordre dont la présente loi exige la signification peut être signifié à personne ou par courrier recommandé expédié à la dernière adresse connue du destinataire ou à son mandataire autorisé à cette fin.

Signification

(2) Si l'avis ou l'ordre est signifié par courrier recommandé, la signification est réputée avoir été faite le troisième jour qui suit la date de la mise à la poste, à moins que le destinataire ou son mandataire aux fins de signification ne démontre qu'il ne l'a reçu qu'à une date ultérieure pour un motif indépendant de sa volonté tel qu'une absence, un accident ou la maladie.

Idem

**28** (1) La commission appelée Building Materials Evaluation Commission est maintenue sous le nom de Commission d'évaluation des matériaux de construction en français et sous le nom de Building Materials Evaluation Commission en anglais, et se compose des personnes que nomme le lieutenant-gouverneur en conseil.

Commission d'évaluation des matériaux de construction

(2) Le lieutenant-gouverneur en conseil peut désigner l'un des membres de la Commission pour assumer les fonctions de président et un autre pour assumer celles de vice-président.

Président et vice-président

(3) Les membres de la Commission reçoivent la rémunération et les indemnités que peut fixer le lieutenant-gouverneur en conseil.

Rémunération

(4) La Commission d'évaluation des matériaux de construction peut :

Attributions

- a) effectuer ou faire effectuer des recherches et des examens portant sur des matériaux, des techniques et toute



materials, techniques and building design for construction;

- (b) upon application therefor, authorize the use, subject to any conditions that may be set out, of any innovative material, technique or building design in respect of any building or part thereof; and

- (c) make recommendations to the Minister respecting changes in this Act or the building code.

Innovative materials

(5) The use of any innovative material, technique or design in the manner approved by the Commission shall be deemed not to be a contravention of the building code.

Rulings

**29.**—(1) The Minister may make rulings approving the use of innovative materials, products, systems or services evaluated by a materials evaluation body designated in the building code.

Delegation

(2) The Minister may by order delegate the power to make rulings to the director.

Status

(3) A ruling is not a regulation within the meaning of the *Regulations Act*.

Publication

(4) A ruling shall be published at least once in *The Ontario Gazette* and made available, upon request, to members of the public.

Application

(5) A ruling of the Minister entitles a person to use the approved material, product, system or service in all of Ontario unless the ruling states otherwise.

Approved materials

(6) The use of an approved material, product, system or service in the manner approved in the ruling shall be deemed not to be a contravention of the building code.

Conflicts

(7) In the event of a conflict between an authorization of the Building Materials Evaluation Commission and a ruling of the Minister, the ruling prevails.

Restriction

(8) If a materials evaluation body designated in the building code has examined or has expressed its intention to examine an innovative material, product, system or service, the Building Materials Evaluation Commission shall not exercise its power under subsection 28 (4) in respect of that material, product, system or service.

Inquiry

**30.**—(1) If it appears to the Minister that there is or may be a failure in construction or

conception ayant trait à la construction;

- b) sur demande, autoriser l'emploi, sous réserve des conditions pouvant être énoncées, d'un nouveau matériau, d'une nouvelle technique ou d'une nouvelle conception en ce qui concerne un bâtiment ou une partie de celui-ci;

- c) recommander au ministre que des modifications soient apportées à la présente loi ou au code du bâtiment.

Nouveaux matériaux

(5) L'emploi de tout nouveau matériau ou de toute nouvelle technique ou conception de la manière approuvée par la Commission est réputé ne pas contrevenir au code du bâtiment.

Décisions

**29** (1) Le ministre peut rendre des décisions approuvant l'emploi de nouveaux matériaux, produits, installations ou réseaux évalués par un organisme d'évaluation des matériaux désigné dans le code du bâtiment.

Délégation d'un pouvoir

(2) Le ministre peut, par voie d'arrêté, déléguer au directeur le pouvoir de rendre des décisions.

Statut

(3) Les décisions ne constituent pas des règlements au sens de la loi intitulée *Regulations Act* («*Loi sur les règlements*»).

Publication

(4) Les décisions sont publiées au moins une fois dans la *Gazette de l'Ontario* et sont mises à la disposition du public, sur demande.

Champ d'application

(5) La décision du ministre autorise, sauf disposition contraire de celle-ci, quiconque à employer partout en Ontario le matériau, le produit, l'installation ou le réseau approuvés.

Matériaux approuvés

(6) L'emploi d'un matériau, d'un produit, d'une installation, ou d'un réseau approuvés de la manière approuvée dans la décision est réputé ne pas contrevenir au code du bâtiment.

Incompatibilité

(7) En cas d'incompatibilité entre une autorisation émanant de la Commission d'évaluation des matériaux de construction et une décision du ministre, cette dernière l'emporte.

Restriction

(8) Si un organisme d'évaluation des matériaux désigné dans le code du bâtiment a examiné ou manifesté son intention d'examiner un nouveau matériau, un nouveau produit, une nouvelle installation ou un nouveau réseau, la Commission d'évaluation des matériaux de construction ne doit pas exercer les pouvoirs qui lui sont conférés en vertu du paragraphe 28 (4) en ce qui concerne ce matériau, ce produit, cette installation ou ce réseau.

Enquête

**30** (1) S'il semble au ministre qu'un manquement aux normes de construction ou

demolition standards or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into the failure.

## Powers

(2) The person conducting the inquiry has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

## Immunity from action

**31.**—(1) No action or other proceeding for damages shall be instituted against the director, a member of the Building Code Commission or the Building Materials Evaluation Commission, or anyone acting under their authority, a person conducting an inquiry under section 30, a chief building official or an inspector for any act done in good faith in the execution or intended execution of any power or duty under this Act or the regulations or for any alleged neglect or default in the execution in good faith of that power or duty.

## Liability

(2) Subsection (1) does not relieve the Crown, a municipal corporation, a county corporation or a board of health of liability in respect of a tort committed by their respective chief building official or inspectors to which they would otherwise be subject and the Crown, a municipal or county corporation or board of health is liable for any such tort as if subsection (1) were not enacted.

## Plumbing

**32.**—(1) Despite any other provision of this Act, the council of a county and of one or more municipalities in the county may enter into an agreement for the enforcement by the county of the provisions of this Act and the building code related to plumbing in the municipalities and for charging the municipalities the whole or part of the cost.

## Delegation to health unit

(2) If an agreement under subsection (1) is in effect, the county council may by agreement delegate its powers under subsection (1) to a board of health having jurisdiction in the municipalities that are parties to the agreement.

## Delegation by municipality

(3) A municipality that is not a party to an agreement under subsection (1) may enter into an agreement with the board of health having jurisdiction in the municipality for the enforcement of the provisions of this Act and the building code relating to plumbing.

de démolition ou dans l'exécution de la présente loi ou du code du bâtiment est commis ou peut être commis, il peut désigner une personne pour effectuer une enquête à ce sujet.

## Pouvoirs

(2) La personne chargée d'effectuer l'enquête est investie des mêmes pouvoirs que ceux d'une commission visée à la partie II de la loi intitulée *Public Inquiries Act* («*Loi sur les enquêtes publiques*»), laquelle partie s'applique à l'enquête comme s'il s'agissait d'une enquête prévue par cette loi.

## Immunité à l'égard des actions

**31** (1) Sont irrecevables les actions ou autres instances en dommages-intérêts engagées contre le directeur, un membre de la Commission du code du bâtiment ou de la Commission d'évaluation des matériaux de construction, la personne qui agit sous leur autorité respective, celle qui effectue l'enquête prévue à l'article 30, le chef du service du bâtiment ou un inspecteur, pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel d'un pouvoir ou d'une fonction attribués par la présente loi ou les règlements, ou pour une négligence ou un manquement prétendus dans l'exercice de bonne foi de ce pouvoir ou de cette fonction.

## Responsabilité

(2) Le paragraphe (1) ne dégage pas la Couronne, les municipalités, les comtés ni les conseils de santé de la responsabilité qu'ils seraient autrement tenus d'assumer à l'égard des délits civils commis par leurs chef du service du bâtiment ou inspecteurs respectifs. La Couronne, les municipalités, les comtés ou les conseils de santé sont responsables de ces délits civils comme si le paragraphe (1) n'était pas adopté.

## Installations de plomberie

**32** (1) Malgré toute autre disposition de la présente loi, les conseils d'un comté et d'une ou de plusieurs municipalités situées dans le comté peuvent conclure un accord prévoyant l'exécution par le comté des dispositions de la présente loi et du code du bâtiment relatives aux installations de plomberie dans les municipalités, et l'imputation totale ou partielle, à ces municipalités, des frais y afférents.

## Délégation de pouvoirs au conseil de santé

(2) Si l'accord prévu au paragraphe (1) est en vigueur, le conseil de comté peut, par accord, déléguer les pouvoirs qui lui sont conférés aux termes du paragraphe (1) à un conseil de santé qui a compétence dans les municipalités qui sont parties à l'accord.

## Délégation

(3) La municipalité qui n'est pas partie à l'accord prévu au paragraphe (1) peut conclure avec le conseil de santé qui y exerce sa compétence un accord prévoyant l'exécution des dispositions de la présente loi et du code du bâtiment relatives aux installations de plomberie.



Plumbing  
inspectors

(4) The county council or the board of health may appoint plumbing inspectors for the purpose of this section.

(4) Le conseil de comté ou le conseil de santé peut nommer des inspecteurs d'installations de plomberie pour l'application du présent article.

Inspecteurs  
d'installations  
de plomberie

Powers

(5) A plumbing inspector appointed under this section or, if there is more than one inspector in the area of jurisdiction, the senior plumbing inspector has the same powers and duties in relation to plumbing as does the chief building official in respect of buildings other than the issuance of conditional permits.

(5) L'inspecteur d'installations de plomberie nommé en vertu du présent article ou, si le territoire de compétence compte plusieurs inspecteurs, l'inspecteur d'installations de plomberie principal a les mêmes pouvoirs et fonctions à l'égard des installations de plomberie que le chef du service du bâtiment à l'égard des bâtiments, à l'exclusion du pouvoir de délivrance de permis conditionnels.

Pouvoirs

Responsi-  
bility

(6) If plumbing inspectors have been appointed under this section, the chief building official and inspectors appointed under section 3 or 4 shall not exercise their powers under this Act in respect of plumbing.

(6) Si des inspecteurs d'installations de plomberie ont été nommés en vertu du présent article, le chef du service du bâtiment et les inspecteurs nommés en vertu de l'article 3 ou 4 ne doivent pas exercer les pouvoirs que leur confèrent la présente loi en ce qui a trait aux installations de plomberie.

Responsabi-  
lité

Application

(7) Subsection 3 (8) and section 7 apply with necessary modifications to a county council or a board of health that has assumed responsibility for plumbing under this section.

(7) Les paragraphes 3 (8) et l'article 7 s'appliquent, avec les adaptations nécessaires, au conseil de comté ou au conseil de santé qui a assumé la responsabilité relative aux installations de plomberie aux termes du présent article.

Champ  
d'applicationTransition,  
plumbing

**33.**—(1) If, on the date this Act comes into force, a county was carrying out plumbing inspections under the *Ontario Water Resources Act* in the municipalities that form part of the county, the county shall enforce the provisions of this Act and the building code related to plumbing in all of the municipalities forming part of the county until the county council by by-law determines otherwise whereupon section 3 applies.

**33** (1) Si, à la date d'entrée en vigueur de la présente loi, un comté effectuait des inspections d'installations de plomberie aux termes de la loi intitulée *Ontario Water Resources Act* («*Loi sur les ressources en eau de l'Ontario*») dans les municipalités qui en font partie, le comté exécute les dispositions de la présente loi et du code du bâtiment relatives aux installations de plomberie dans toutes les municipalités qui en font partie jusqu'à ce que le conseil de comté en décide autrement, par règlement municipal, après quoi l'article 3 s'applique.

Disposition  
transitoire  
relative aux  
installations  
de plomberie

Idem

(2) Subsections 32 (4) to (7) apply with necessary modifications to a county that has assumed responsibility for plumbing under this section.

(2) Les paragraphes 32 (4) à (7) s'appliquent, avec les adaptations nécessaires, au comté qui a assumé la responsabilité relative aux installations de plomberie aux termes du présent article.

Idem

Definition

(3) For the purpose of this section, "county" includes any regional municipality that has been deemed to be a county by any general or special Act for the purposes of section 45 of the *Ontario Water Resources Act*, as it read before the coming into force of this Act.

(3) Pour l'application du présent article, «comté» s'entend en outre d'une municipalité régionale qui est réputée un comté en vertu de toute loi générale ou spéciale pour l'application de l'article 45 de la *Loi sur les ressources en eau de l'Ontario*, tel qu'il s'énonçait avant l'entrée en vigueur de la présente loi.

Définition

Regulations

**34.**—(1) The Lieutenant Governor in Council may make regulations for the purpose of establishing a building code governing standards for the construction and demolition of buildings, including,

**34** (1) Le lieutenant-gouverneur en conseil peut, par règlement, prévoir la création d'un code du bâtiment qui régit les normes de construction et de démolition des bâtiments, et notamment :

Règlements

1. designating structures that are to be defined as buildings under subsection 1 (1);

1. désigner les structures qui doivent être définies en tant que bâtiments aux termes du paragraphe 1 (1);

2. defining as constructed plans for the purpose of this Act and the building code and prescribing the conditions under which they may be required by a chief building official under clause 7 (g);
3. governing the manner of construction and types and quality of materials used therein;
4. setting out the applicable laws with which compliance must be achieved before a conditional permit may be issued under subsection 8 (3);
5. governing the design of buildings and the use to which they may be put;
6. establishing conditions under which the use of materials, techniques and systems that are not authorized in the building code may be allowed under section 9;
7. determining an increase in hazard for the purposes of section 10;
8. adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
9. providing for the testing and marking of pipes, fittings, fixtures and materials or classes thereof by organizations accredited for that purpose by the Standards Council of Canada and prohibiting the use in plumbing of pipes, fittings, fixtures and materials that are not marked as approved by those organizations;
10. requiring any part of the design, construction or demolition of a building to be under the general review of an architect as defined in the *Architects Act, 1984* or a professional engineer as defined in the *Professional Engineers Act, 1984* and that copies of reports arising from the general review be provided to the chief building official;
11. designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of their label on units that conform to the standards;
2. définir l'expression «plans conformes à l'exécution» pour l'application de la présente loi et du code du bâtiment, et prescrire les conditions auxquelles le chef du service du bâtiment peut exiger ces plans en vertu de l'alinéa 7 g);
3. régir les méthodes de construction et les types de matériaux employés pour les travaux de construction, ainsi que la qualité de ces matériaux;
4. préciser les lois applicables auxquelles la personne intéressée doit s'être conformée avant qu'un permis conditionnel ne puisse lui être délivré en vertu du paragraphe 8 (3);
5. régir la conception des bâtiments et l'usage qui peut en être fait;
6. déterminer les conditions dans lesquelles l'emploi de matériaux, de techniques, d'installations et de réseaux qui ne sont pas autorisés par le code du bâtiment peut être permis en vertu de l'article 9;
7. établir s'il y a un accroissement du risque pour l'application de l'article 10;
8. adopter par renvoi, en totalité ou en partie et avec les modifications que le lieutenant-gouverneur en conseil estime nécessaires, tout code ou toute norme et exiger l'observation du code ou de la norme ainsi adoptés;
9. prévoir l'essai et le marquage des conduits, raccords de tuyauterie, accessoires fixes et matériaux, ou des catégories de ceux-ci, par des organismes agréés à cette fin par le Conseil canadien des normes, et interdire leur emploi dans les installations de plomberie s'ils ne sont pas marqués comme étant approuvés par ces organismes;
10. exiger l'examen de conformité de quelque partie que ce soit des travaux de conception, de construction ou de démolition d'un bâtiment par un architecte au sens de la *Loi de 1984 sur les architectes* ou par un ingénieur au sens de la *Loi de 1984 sur les ingénieurs*, et exiger que des copies des rapports découlant de cet examen de conformité soient remises au chef du service du bâtiment;
11. désigner les organismes qui mettent à l'essai des pièces de construction préfabriquées au regard des normes prescrites par le code du bâtiment, et prévoir que les pièces qui sont conformes à ces normes portent la marque de ces organismes;



12. requiring the approval of an inspector in respect of any method, matter or thing;
  13. requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;
  14. requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;
  15. requiring notice to be given to the chief building official or an inspector respecting any matter in the course of construction or demolition;
  16. requiring notice to be given to the chief building official respecting the change in prescribed classes of use made of a building;
  17. requiring the chief building official to transmit to the director such returns or reports as are prescribed;
  18. prescribing conditions under which a building or any part of a building may be occupied;
  19. exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;
  20. prescribing the form of a warrant and the form in which the information upon oath will be taken under section 21;
  21. requiring the alteration of any part of an existing building where construction in relation to the building affects that part;
  22. requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;
  23. designating materials evaluation bodies for the purposes of section 29;
  24. establishing criteria to be followed by the Minister in respect of a ruling under section 29;
  25. prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;
  26. prescribing the persons to whom notice shall be given of the issuance of
12. exiger l'approbation par un inspecteur de toute méthode, question ou chose;
  13. exiger que soient affichés sur des bâtiments ou des chantiers de construction ou de démolition les documents ou renseignements qui sont prescrits;
  14. exiger que les documents, renseignements, dossiers, dessins ou devis qui sont prescrits soient conservés sur les chantiers de construction ou de démolition;
  15. exiger la remise d'un avis au chef du service du bâtiment ou à un inspecteur en ce qui concerne toute question qui survient au cours de travaux de construction ou de démolition;
  16. exiger la remise d'un avis au chef du service du bâtiment en ce qui concerne toute modification des catégories d'usages prescrites d'un bâtiment;
  17. exiger du chef du service du bâtiment qu'il remette au directeur les déclarations ou rapports qui sont prescrits;
  18. prescrire les conditions d'occupation de tout ou partie d'un bâtiment;
  19. soustraire à l'application de la présente loi et des règlements, ou de toute disposition de celle-ci ou de ceux-ci, tout bâtiment ou toute catégorie de bâtiments;
  20. prescrire la formule des mandats et celle sur laquelle sont faites les dénonciations sous serment aux termes de l'article 21;
  21. exiger la modification de toute partie d'un bâtiment existant si les travaux de construction qui se rapportent à ce bâtiment ont une incidence sur cette partie;
  22. exiger l'acquittement de droits relatifs à la présentation des demandes à la Commission d'évaluation des matériaux de construction et en prescrire le montant;
  23. désigner les organismes d'évaluation des matériaux pour l'application de l'article 29;
  24. établir les critères que le ministre doit appliquer lorsqu'il rend une décision en vertu de l'article 29;
  25. prescrire la marche à suivre de la Commission du code du bâtiment et celle de la Commission d'évaluation des matériaux de construction;
  26. prescrire les personnes auxquelles l'avis de délivrance d'un permis doit

a permit, the time for giving the notice and the class of buildings for which notice is required;

27. defining drainage system, venting system and water system for the purposes of this Act and the building code;

28. prescribing forms and providing for their use or requiring that forms provided by the Minister be used.

Standards  
for existing  
buildings

(2) The Lieutenant Governor in Council may make regulations to establish standards that existing buildings must meet even though no construction is proposed, including regulations,

(a) prescribing any or all of the matters set out in subsection (1) as applicable to existing buildings;

(b) establishing standards for maintenance, occupancy and repair; and

(c) prescribing standards related to resource conservation and environmental protection.

Application

(3) A regulation made under subsection (2) applies to buildings whether erected before or after the coming into force of this Act.

Limited  
application

(4) Any regulation made under this section may be limited in its application territorially or to any class of building, construction or demolition.

Municipal  
by-laws

**35.** This Act and the building code supersede all municipal by-laws respecting the construction or demolition of buildings.

Offences

**36.—(1)** A person is guilty of an offence if the person,

(a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with an order, direction or other requirement made under this Act; or

(c) contravenes this Act or the regulations or a by-law passed under this Act.

être donné, le délai prévu pour remettre l'avis, ainsi que les catégories de bâtiments pour lesquelles un tel avis est exigé;

27. définir les termes «réseau d'évacuation», «réseau de ventilation» et «réseau d'alimentation en eau» pour l'application de la présente loi et du code du bâtiment;

28. prescrire des formules et prévoir les modalités de leur emploi, ou exiger l'emploi des formules fournies par le ministre.

(2) Le lieutenant-gouverneur en conseil peut, par règlement, établir des normes auxquelles les bâtiments existants doivent être conformes même si aucuns travaux de construction ne sont projetés, et notamment :

a) prescrire tout ou partie des questions énoncées au paragraphe (1) dans la mesure où elles s'appliquent aux bâtiments existants;

b) établir des normes d'entretien, d'occupation et de réparation;

c) prescrire les normes relatives à la conservation des ressources et à la protection de l'environnement.

(3) Tout règlement pris en application du paragraphe (2) s'applique aux bâtiments, qu'ils aient été érigés avant ou après l'entrée en vigueur de la présente loi.

(4) L'application de tout règlement pris en application du présent article peut être restreinte à certains territoires ou à une catégorie de bâtiments ou de travaux de construction ou de démolition.

**35** La présente loi et le code du bâtiment remplacent tous les règlements municipaux portant sur les travaux de construction ou de démolition des bâtiments.

**36 (1)** Est coupable d'une infraction quiconque :

a) soit fournit sciemment de faux renseignements dans une demande ou une requête prévues par la présente loi ou dans toute déclaration ou tout rapport devant être présentés aux termes de la présente loi ou des règlements;

b) soit omet de se conformer à un ordre ou à une directive donnés, à une ordonnance rendue ou à un arrêté pris en vertu de la présente loi ou à une autre exigence que celle-ci prévoit;

c) soit contrevient à la présente loi ou aux règlements, ou à un règlement municipal ou administratif adopté en vertu de la présente loi.

Normes applicables aux bâtiments existants

Champ d'application

Champ d'application restreint

Règlements municipaux

Infractions



Idem	(2) Every director or officer of a corporation who knowingly concurs in the furnishing of false information, the failure to comply or the contravention under subsection (1) is guilty of an offence.	(2) Est coupable d'une infraction l'administrateur ou le dirigeant d'une personne morale qui approuve sciemment que soient fournis de faux renseignements visés au paragraphe (1), ou qui approuve sciemment l'omission de se conformer ou la contravention visées à ce paragraphe.	Idem
Penalties	(3) A person who is convicted of an offence is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.	(3) Quiconque est déclaré coupable d'une infraction est passible d'une amende d'au plus 25 000 \$ à l'égard d'une première infraction et d'une amende d'au plus 50 000 \$ en cas d'infraction subséquente.	Peines
Corporations	(4) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence and not as provided in subsection (3).	(4) La personne morale déclarée coupable d'une infraction encourt une amende maximale de 50 000 \$ s'il s'agit d'une première infraction et une amende maximale de 100 000 \$ s'il s'agit d'une infraction subséquente, et non les amendes prévues au paragraphe (3).	Personnes morales
Subsequent offence	(5) For the purposes of subsections (3) and (4), an offence is a subsequent offence if there has been a previous conviction under this Act.	(5) Pour l'application des paragraphes (3) et (4), une infraction constitue une infraction subséquente s'il y a eu précédemment une déclaration de culpabilité aux termes de la présente loi.	Infraction subséquente
Continuing offence	(6) Every person who fails to comply with an order made by a chief building official under subsection 14 (1) or clause 15 (5) (a) is guilty of an offence and on conviction, in addition to the penalties mentioned in subsections (3) and (4), is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the order has expired.	(6) Quiconque ne se conforme pas à un ordre donné par le chef du service du bâtiment en vertu du paragraphe 14 (1) ou de l'alinéa 15 (5) a) est coupable d'une infraction et passible, sur déclaration de culpabilité, en plus des peines prévues aux paragraphes (3) et (4), d'une amende d'au plus 10 000 \$ pour chaque jour durant lequel l'infraction continue après l'expiration du délai qui lui est accordé pour se conformer à l'ordre.	Infraction continue
Power to restrain	(7) If this Act or the regulations are contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by this Act, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted.	(7) S'il est contrevenu à la présente loi ou aux règlements et qu'une déclaration de culpabilité est inscrite, le tribunal devant lequel la déclaration de culpabilité est inscrite, ainsi que tout tribunal qui est compétent par la suite, peuvent, en plus de tout autre recours et de toute peine prévus par la présente loi, rendre une ordonnance interdisant la continuation ou la répétition de l'infraction par la personne déclarée coupable.	Pouvoir de faire cesser une infraction
Limitation period	(8) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose.	(8) L'instance introduite aux termes du présent article se prescrit par un an à compter de la date à laquelle est né l'objet de l'instance.	Délai de prescription
Proceeds of fines	(9) If an offence under this section has been committed within a municipality, the proceeds of a fine imposed under this section shall be paid to the treasurer of that municipality, and section 4 of the <i>Administration of Justice Act</i> and section 4 of the <i>Fines and Forfeitures Act</i> do not apply in respect of the fine.	(9) Si l'infraction prévue au présent article a été commise dans une municipalité, le montant de l'amende imposée aux termes du présent article est versé au trésorier de cette municipalité, et ni l'article 4 de la loi intitulée <i>Administration of Justice Act</i> (« <i>Loi sur l'administration de la justice</i> »), ni l'article 4 de la loi intitulée <i>Fines and Forfeitures Act</i> (« <i>Loi sur les amendes et confiscations</i> ») ne s'appliquent à cette amende.	Montant des amendes
Proof of order	<b>37.—</b> (1) In any prosecution for an offence under this Act, a copy of a direction or order	<b>37</b> (1) Dans toute poursuite relativement à une infraction à la présente loi, la copie	Preuve de l'ordre, de l'ordonnance ou de l'arrêté

purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is, in the absence of evidence to the contrary, proof of the direction or order without proof of the signature or authority.

d'une directive ou d'un ordre apparemment donnés, d'une ordonnance apparemment rendue ou d'un arrêté apparemment pris en vertu de la présente loi ou des règlements, et apparemment signés par la personne autorisée par la présente loi à ce faire constituée, en l'absence de preuve contraire, la preuve que la directive ou l'ordre a été donné, l'ordonnance a été rendue ou l'arrêté a été pris, selon le cas, sans qu'il soit nécessaire de faire la preuve de l'authenticité de la signature ou de l'autorité.

Proof of  
matters of  
record

(2) A statement as to any matter of record in an office of the chief building official purporting to be certified by the chief building official is, without proof of the office or signature of the chief building official, receivable in evidence as proof, in the absence of evidence to the contrary, of the facts stated therein in any civil proceeding or proceeding under the *Provincial Offences Act*.

(2) La déclaration relative à tout renseignement tiré des dossiers du bureau du chef du service du bâtiment qui se présente comme étant certifiée par ce dernier fait foi, en l'absence de preuve contraire, des faits qui y sont indiqués, dans une instance civile ou une instance engagée en vertu de la loi intitulée *Provincial Offences Act* («*Loi sur les infractions provinciales*»), sans qu'il soit nécessaire de faire la preuve de l'autorité du chef du service du bâtiment ou de l'authenticité de sa signature.

Preuve du  
contenu des  
dossiers

Restraining  
order

**38.—**(1) Where it appears to a chief building official that a person does not comply with this Act, the regulations or an order made under this Act, despite the imposition of any penalty in respect of the non-compliance and in addition to any other rights he or she may have, the chief building official may apply to a judge of the Ontario Court (General Division) for an order directing that person to comply with the provision.

**38** (1) S'il semble au chef du service du bâtiment qu'une personne ne se conforme pas à la présente loi, aux règlements ou à un ordre donné, à une ordonnance rendue ou à un arrêté pris en vertu de la présente loi, malgré l'imposition des peines prévues en pareil cas, il peut, en plus de tous les autres recours dont il dispose, présenter une requête à un juge de la Cour de l'Ontario (Division générale) pour obtenir une ordonnance qui enjoigne à cette personne de se conformer à la disposition.

Ordonnance  
enjoignant de  
se conformer

Idem

(2) Upon the application under subsection (1), the judge may make the order or such other order as the judge thinks fit.

(2) Le juge qui est saisi d'une requête présentée en vertu du paragraphe (1) peut rendre l'ordonnance qui y est prévue ou toute autre ordonnance qu'il estime appropriée.

Idem

Appeal

(3) An appeal lies to the Divisional Court from an order made under subsection (1).

(3) Il peut être interjeté appel d'une ordonnance rendue en vertu du paragraphe (1) devant la Cour divisionnaire.

Appel

#### COMPLEMENTARY AMENDMENTS

**39.—**(1) *Clauses 1 (s) and (u) of the Ontario Water Resources Act are repealed and the following substituted:*

#### MODIFICATIONS COMPLÉMENTAIRES

**39** (1) Les alinéas 1 (s) et (u) de la loi intitulée *Ontario Water Resources Act* («*Loi sur les ressources en eau de l'Ontario*») sont abrogés et remplacés par ce qui suit :

(s) "sewage works" means any works for the collection, transmission, treatment and disposal of sewage or any part of such works, but does not include plumbing to which the *Building Code Act, 1991* applies;

(u) "water works" means any works for the collection, production, treatment, storage, supply and distribution of water, or any part of such works, but does not include plumbing to which the *Building Code Act, 1991* applies.



(2) Section 2 of the Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 20, is repealed and the following substituted:

Administra-  
tion

**2.** The Minister of the Environment is responsible for the administration of this Act.

(3) Subsection 44 (2) of the Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 35 and 1988, chapter 54, section 76, is repealed.

(4) Subsection 44 (4) of the Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 35 and 1988, chapter 54, section 88, is repealed.

(5) Sections 45, 46, 47 and 48 of the Act are repealed.

(6) Subsection 54 (2) of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 18, section 34, is repealed.

(7) Subsection 66 (4) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41, is amended by striking out “44(4) or” in the second line.

(8) Subsection 67 (3) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 68, section 41, is amended by striking out “44(4) or” in the second line.

(9) Clause 69 (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 54, section 85, is repealed and the following substituted:

(a) this Act.

**40.** Section 210c of the *Municipal Act*, as enacted by the Statutes of Ontario, 1983, chapter 5, section 1, is repealed.

**41.** Section 52 of the *Regional Municipality of Haldimand-Norfolk Act*, as re-enacted by the Statutes of Ontario, 1983, chapter 5, section 11, is repealed and the following substituted:

Costs recov-  
ered

**52.** Any costs incurred by the Regional Corporation under subsection 8 (6) or clause 15 (5) (b) of the *Building Code Act, 1991* or determined by a judge to be recoverable under subsection 17 (7) of that Act may be charged to the area municipality in which the building is located and the area municipality shall collect the costs in the manner set out in subsections 8 (7), 15 (9) and 17 (9) of that Act and pay them to the Regional Corporation when collected.

**42.** Subsection 27 (4) of the *Regional Municipality of Sudbury Act*, as re-enacted by the Statutes of Ontario, 1983, chapter 5, sec-

(2) L'article 2 de la Loi, tel qu'il est modifié par l'article 20 du chapitre 68 des Lois de l'Ontario de 1986, est abrogé et remplacé par ce qui suit :

(3) Le paragraphe 44 (2) de la Loi, tel qu'il est modifié par l'article 35 du chapitre 68 des Lois de l'Ontario de 1986 et par l'article 76 du chapitre 54 des Lois de l'Ontario de 1988, est abrogé.

(4) Le paragraphe 44 (4) de la Loi, tel qu'il est modifié par l'article 35 du chapitre 68 des Lois de l'Ontario de 1986 et par l'article 88 du chapitre 54 des Lois de l'Ontario de 1988, est abrogé.

(5) Les articles 45, 46, 47 et 48 de la Loi sont abrogés.

(6) Le paragraphe 54 (2) de la Loi, tel qu'il est adopté de nouveau par l'article 34 du chapitre 18 des Lois de l'Ontario de 1990, est abrogé.

(7) Le paragraphe 66 (4) de la Loi, tel qu'il est adopté par l'article 41 du chapitre 68 des Lois de l'Ontario de 1986, est modifié par suppression de «44(4) or» à la deuxième ligne.

(8) Le paragraphe 67 (3) de la Loi, tel qu'il est adopté par l'article 41 du chapitre 68 des Lois de l'Ontario de 1986, est modifié par suppression de «44(4) or» à la deuxième ligne.

(9) L'alinéa 69 (a) de la Loi, tel qu'il est adopté de nouveau par l'article 85 du chapitre 54 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

**40** L'article 210c de la loi intitulée *Municipal Act* («*Loi sur les municipalités*»), tel qu'il est adopté par l'article 1 du chapitre 5 des Lois de l'Ontario de 1983, est abrogé.

**41** L'article 52 de la loi intitulée *Regional Municipality of Haldimand-Norfolk Act* («*Loi sur la municipalité régionale de Haldimand-Norfolk*»), tel qu'il est adopté de nouveau par l'article 11 du chapitre 5 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

**42** Le paragraphe 27 (4) de la loi intitulée *Regional Municipality of Sudbury Act* («*Loi sur la municipalité régionale de Sudbury*»), tel qu'il est adopté de nouveau par l'article 5 du

tion 5, is repealed and the following substituted:

chapitre 5 des Lois de l'Ontario de 1983, est abrogé et remplacé par ce qui suit :

Costs recovered

(4) Any costs incurred by the Regional Corporation under subsection 8 (6) or clause 15 (5) (b) of the *Building Code Act, 1991* or determined by a judge to be recoverable under subsection 17 (7) of that Act may be charged to the area municipality in which the building is located and the area municipality shall collect the costs in the manner set out in subsections 8 (7), 15 (9) and 17 (9) of that Act and pay them to the Regional Corporation when collected.

Repeals

**43.** The *Building Code Act* and the *Building Code Amendment Act, 1983* are repealed.

**43** La loi intitulée *Building Code Act* («*Loi sur le code du bâtiment*») et celle intitulée *Building Code Amendment Act, 1983* sont abrogées.

Abrogation

Commencement

**44.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

**44** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

Short title

**45.** The short title of this Act is the *Building Code Act, 1991*.

**45** Le titre abrégé de la présente loi est *Loi de 1991 sur le code du bâtiment*.

Titre abrégé





Bill 113

Private Member's Bill

Projet de loi 113

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 113

**An Act to amend the Mining Act**

**Mr. Ramsay**

1st Reading      May 29th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 113

**Loi portant modification de la Loi sur  
les mines**

**M. Ramsay**



1<sup>re</sup> lecture      29 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The Bill would amend the definition of “minerals” in the *Mining Act* to include sand, gravel and peat.

The Bill amends only the English version of the *Mining Act*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi modifie la définition du terme «minéraux» dans la *Loi sur les mines* afin d’y ajouter le sable, le gravier et la tourbe.

Le projet de loi ne modifie que la version anglaise de la *Loi sur les mines*, la Législature n’ayant pas encore adopté de version française officielle de cette loi.

## An Act to amend the Mining Act

Loi portant modification de la Loi sur  
les mines

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Paragraph 16 of section 1 of the *Mining Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 62, section 1, is repealed and the following substituted:

16. “minerals” means all naturally occurring metallic and non-metallic minerals, including natural gas, petroleum, coal, salt, quarry and pit material, gold, silver, all rare and precious metals, and sand, gravel and peat.

**2.** This Act shall be deemed to have come into force on the 3rd day of June, 1991.

**3.** The short title of this Act is the *Mining Amendment Act, 1991*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** La disposition 16 de l'article 1 de la loi intitulée *Mining Act* («*Loi sur les mines*»), telle qu'elle est adoptée de nouveau par l'article 1 du chapitre 62 des Lois de l'Ontario de 1989, est abrogée et remplacée par ce qui suit :

**2** La présente loi est réputée être entrée en vigueur le 3 juin 1991.

**3** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les mines*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé





Bill 114

Government Bill

Projet de loi 114

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 114

**An Act to amend the Education Act and  
certain other Acts with respect to Spe-  
cial Education**

**The Hon. M. Boyd**  
Minister of Education

1st Reading      May 30th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 114

**Loi portant modification de la Loi sur  
l'éducation et de certaines autres lois en  
ce qui concerne l'enfance en difficulté**

**L'honorable M. Boyd**  
Ministre de l'Éducation

1<sup>re</sup> lecture      30 mai 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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## EXPLANATORY NOTES

The Bill amends the provisions of the *Education Act*, the *Municipality of Metropolitan Toronto Act* and the *Ottawa-Carleton French-Language School Board Act, 1988* dealing with special education programs and special education services for exceptional pupils. Exceptional pupils are pupils with behavioural, communicational, intellectual, physical or multiple exceptionalities who are identified in accordance with the regulations under the *Education Act* as in need of special education programs.

References to "trainable retarded pupils" are removed from the Acts. These pupils will be governed by the same provisions that apply to other exceptional pupils (subject to the amendments made to the *Municipality of Metropolitan Toronto Act*).

### *Education Act*

The appeal functions now carried out by a variety of Special Education Tribunals and regional tribunals with respect to the identification and placement of exceptional pupils will be performed by a new tribunal, the Ontario Special Education Tribunal. The appeal procedure is simplified by eliminating the need to obtain leave to appeal.

The provisions of the Act dealing with "hard to serve pupils" are repealed. These pupils will be governed by the same provisions that apply to other exceptional pupils.

If a board has a minority-language section under Part XI-A of the Act, the section will be authorized to establish a special education advisory committee for the section.

The Bill amends only the English version of the *Education Act*. The Legislature has not yet adopted an official French version of the Act.

### *Municipality of Metropolitan Toronto Act*

The Metropolitan Toronto School Board will retain its responsibilities with respect to trainable retarded pupils (to be described now as "exceptional pupils with developmental handicaps"). However, provision is made for the boards of education for the area municipalities in Metropolitan Toronto and The Metropolitan Toronto French-Language School Council (which already have responsibility for other exceptional pupils) to assume responsibility for exceptional pupils with developmental handicaps no later than January 1, 1995.

The Bill amends only the English version of the *Municipality of Metropolitan Toronto Act*. The Legislature has not yet adopted an official French version of the Act.

### *Ottawa-Carleton French-Language School Board Act, 1988*

The provisions of the *Education Act* respecting special education advisory committees are made applicable to each sector of The Ottawa-Carleton French-language School Board.

## NOTES EXPLICATIVES

Le projet de loi modifie les dispositions de la *Loi sur l'éducation*, de la *Loi sur la municipalité de la communauté urbaine de Toronto* et de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton* qui ont trait aux programmes d'enseignement à l'enfance en difficulté et aux services à l'enfance en difficulté destinés aux élèves en difficulté. Les élèves en difficulté sont des élèves qui présentent des anomalies de comportement ou de communication, des anomalies d'ordre intellectuel ou physique, ou des anomalies multiples, et qui sont identifiés, conformément aux règlements pris en application de la *Loi sur l'éducation*, comme des élèves ayant besoin de participer à des programmes d'enseignement à l'enfance en difficulté.

Toute mention du terme «élèves déficients moyens» est supprimée dans ces lois. Ces élèves seront régis par les mêmes dispositions que celles qui s'appliquent aux autres élèves en difficulté (sous réserve des modifications apportées à la *Loi sur la municipalité de la communauté urbaine de Toronto*).

### *Loi sur l'éducation*

Les fonctions relatives aux appels dont s'acquittent actuellement divers tribunaux de l'enfance en difficulté et tribunaux régionaux en ce qui concerne l'identification et le placement des élèves en difficulté seront accomplies par un nouveau tribunal nommé Tribunal de l'enfance en difficulté de l'Ontario. La procédure d'appel est simplifiée puisque l'obtention d'une autorisation d'interjeter appel n'est plus requise.

Les dispositions de la Loi qui ont trait aux «élèves en difficulté extrême» sont abrogées. Ces élèves seront régis par les mêmes dispositions que celles qui s'appliquent aux autres élèves en difficulté.

Si un conseil comporte une section de langue minoritaire aux termes de la partie XI-A de la Loi, la section sera autorisée, pour ses besoins, à constituer un comité consultatif pour l'enfance en difficulté.

Le projet de loi ne modifie que la version anglaise de la *Loi sur l'éducation*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

### *Loi sur la municipalité de la communauté urbaine de Toronto*

Le Conseil scolaire de la communauté urbaine de Toronto conservera ses responsabilités à l'égard des élèves déficients moyens (qui doivent dorénavant être qualifiés d'«élèves atteints de handicaps de développement»). Toutefois, il est prévu que les conseils de l'éducation des municipalités de secteur qui se trouvent dans la communauté urbaine de Toronto et le Conseil des écoles françaises de la communauté urbaine de Toronto (qui ont déjà la responsabilité des autres élèves en difficulté) assument la responsabilité des élèves en difficulté atteints de handicaps de développement au plus tard le 1<sup>er</sup> janvier 1995.

Le projet de loi ne modifie que la version anglaise de la *Loi sur la municipalité de la communauté urbaine de Toronto*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

### *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton*

Les dispositions de la *Loi sur l'éducation* en ce qui concerne les comités consultatifs pour l'enfance en difficulté s'appliquent désormais à chaque section du Conseil scolaire de langue française d'Ottawa-Carleton.

**An Act to amend the Education Act  
and certain other Acts with respect to  
Special Education**

**Loi portant modification de la Loi sur  
l'éducation et de certaines autres lois  
en ce qui concerne l'enfance en  
difficulté**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**EDUCATION ACT**

**LOI SUR L'ÉDUCATION**

**1.—(1) Paragraph 21 of subsection 1 (1) of the *Education Act* is repealed and the following substituted:**

**1 (1) La disposition 21 du paragraphe 1 (1) de la loi intitulée *Education Act* («*Loi sur l'éducation*») est abrogée et remplacée par ce qui suit :**

21. "exceptional pupil" means a pupil with behavioural, communicational, intellectual, physical or multiple exceptionalities who is identified in accordance with the regulations as in need of placement in a special education program.

**(2) Paragraph 68 of subsection 1 (1) is repealed.**

**(2) La disposition 68 du paragraphe 1 (1) est abrogée.**

**2.—(1) Subsection 8 (1) of the Act is amended by adding the following clause:**

**2 (1) Le paragraphe 8 (1) de la Loi est modifié par adjonction de l'alinéa suivant :**

(ca) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils and may prescribe standards in accordance with which the procedures shall be implemented.

**(2) Subsection 8 (2) of the Act is repealed and the following substituted:**

**(2) Le paragraphe 8 (2) de la Loi est abrogé et remplacé par ce qui suit :**

Special  
education  
programs  
and services

(2) The Minister shall ensure that all exceptional pupils in Ontario have available to them, in accordance with this Act and the regulations, appropriate special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the identification and placement of exceptional pupils, and for these purposes,

(a) the Minister may require a board to provide the Minister, in such form as the Minister may prescribe, with such information as the Minister considers necessary concerning special education programs and special education services provided by the board; and

(b) the Minister shall define exceptionalities of pupils, prescribe categories of exceptional pupils and require boards to employ the definitions and use the prescriptions established under this clause.

**3.—(1) Paragraphs 5 and 6 of subsection 10 (1) of the Act are repealed and the following substituted:**

**3 (1) Les dispositions 5 et 6 du paragraphe 10 (1) de la Loi sont abrogées et remplacées par ce qui suit :**



5. respecting the provision, organization, contents, operation and administration of special education programs and special education services;
6. respecting the identification and placement of exceptional pupils, including the establishment, composition, jurisdiction, powers and procedures of,
  - i. committees to identify and place exceptional pupils and to review the identification and placement of exceptional pupils, and
  - ii. appeal boards to hear appeals from determinations made by committees established under subparagraph i;
- 6a. respecting the procedures of the Ontario Special Education Tribunal.

**(2) Paragraph 26 of subsection 10 (1) is repealed.**

**(2) La disposition 26 du paragraphe 10 (1) est abrogée.**

**(3) Section 10 of the Act is amended by adding the following subsections:**

**(3) L'article 10 de la Loi est modifié par adjonction des paragraphes suivants :**

Idem

(1a) A regulation under paragraph 5 of subsection (1) may require boards to prepare plans respecting special education programs and special education services and may authorize the Minister to require that a board review or amend its plan in a manner directed by the Minister.

Idem

(1b) A regulation made under paragraph 6 of subsection (1) may authorize a board to establish procedures that supplement procedures prescribed by the regulation.

**(4) Subsection 10 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 2, is repealed.**

**(4) Le paragraphe 10 (2) de la Loi, tel qu'il est adopté par l'article 2 du chapitre 1 des Lois de l'Ontario de 1989, est abrogé.**

**4. The Act is amended by adding the following section:**

**4 La Loi est modifiée par adjonction de l'article suivant :**

Ontario  
Special  
Education  
Tribunal

**12a.**—(1) A tribunal to be known in English as the Ontario Special Education Tribunal and in French as Tribunal de l'enfance en difficulté de l'Ontario is established.

Composition  
of Tribunal

(2) The Lieutenant Governor in Council may appoint such number of members of the Tribunal as is considered necessary, but no person employed in the public service of Ontario shall be appointed.

Chair and  
deputy chair

(3) The Lieutenant Governor in Council shall designate the chair and one or more deputy chairs of the Tribunal from among the members of the Tribunal.

Remunera-  
tion

(4) The members of the Tribunal shall be paid such remuneration and expenses as are determined by the Management Board of Cabinet.

Assignment  
of members  
to hearings

(5) The chair of the Tribunal shall assign the members of the Tribunal to the Tribunal's hearings.

Deputy  
chair's  
authority

(6) A deputy chair may perform the duties of the chair when the chair is absent or unable to act.

Composition  
for hearings

(7) A proceeding before the Tribunal shall be heard and determined by at least three members of the Tribunal, at least one of whom shall be the chair or a deputy chair.

Appeal from  
special  
education  
appeal board

(8) A party to a proceeding before an appeal board established under subparagraph ii of paragraph 6 of subsection 10 (1) may, within twenty-one days of the decision of the appeal board, appeal the decision to the Tribunal.

Powers of Tribunal	(9) The Tribunal may, (a) dismiss the appeal; or (b) grant the appeal and make such other order as it considers necessary with respect to the identification or placement of the pupil.
Transportation	(10) An order under subsection (9) may require a board to provide transportation for an exceptional pupil.
Costs	(11) The Tribunal may order a board that is a party to an appeal under subsection (8) to reimburse any other party for expenses incurred in connection with the appeal.

**5.** Subsections 32 (5) and (6) of the Act are repealed.

**6.—(1)** Sections 34, 35 and 36 of the Act are repealed.

(2) If a person applied under subsection 36 (1) of the Act for leave to appeal a decision in respect of the identification or placement of a pupil as an exceptional pupil and, on the date this section comes into force, no decision has yet been made on the application for leave or leave has been granted but no determination has yet been made on the appeal,

- (a) if the hearing of the appeal has begun before a regional tribunal established under section 36 of the Act before this section comes into force, the regional tribunal shall complete the hearing and determine the appeal;
- (b) if the hearing of the appeal has begun before a Special Education Tribunal established under section 35 of the Act before this section comes into force, the Special Education Tribunal shall complete the hearing and determine the appeal; and
- (c) if no hearing of the appeal has begun, the appeal shall be heard and determined by the Ontario Special Education Tribunal established by section 12a of the Act, as enacted by section 4 of this Act.

**7.** Subsections 39 (3) and (4) of the Act are repealed.

**8.—(1)** Subsection 47 (1) of the Act is repealed.

(2) The repeal of subsection 47 (1) does not affect a right given to a pupil by that subsection.

**9.** Subsection 55 (5) of the Act is repealed.

**10.** The subheading preceding section 71, sections 71, 72 and 73, section 74, as amended by the Statutes of Ontario, 1982, chapter 32, section 25, and sections 75, 76, 77 and 78 of the Act are repealed.

**5** Les paragraphes 32 (5) et (6) de la Loi sont abrogés.

**6** (1) Les articles 34, 35 et 36 de la Loi sont abrogés.

(2) Si une personne a demandé, en vertu du paragraphe 36 (1) de la Loi, l'autorisation d'interjeter appel d'une décision à l'égard de l'identification ou du placement d'un élève à titre d'élève en difficulté, et qu'à la date d'entrée en vigueur du présent article, aucune décision n'a encore été rendue en ce qui concerne la demande d'autorisation d'interjeter appel ou l'autorisation a été accordée, mais l'appel n'a pas encore été tranché :

- a) si l'audition de l'appel devant un tribunal régional créé en vertu de l'article 36 de la Loi a commencé avant l'entrée en vigueur du présent article, le tribunal régional termine l'audition et tranche l'appel;
- b) si l'audition de l'appel devant un tribunal de l'enfance en difficulté créé en vertu de l'article 35 de la Loi avant l'entrée en vigueur du présent article a commencé, le tribunal de l'enfance en difficulté termine l'audition et tranche l'appel;
- c) si l'audition de l'appel n'a pas commencé, l'appel est entendu et tranché par le Tribunal de l'enfance en difficulté de l'Ontario créé par l'article 12a de la Loi, tel qu'il est adopté par l'article 4 de la présente loi.

**7** Les paragraphes 39 (3) et (4) de la Loi sont abrogés.

**8** (1) Le paragraphe 47 (1) de la Loi est abrogé.

(2) L'abrogation du paragraphe 47 (1) ne porte pas atteinte à un droit conféré à un élève par ce paragraphe.

**9** Le paragraphe 55 (5) de la Loi est abrogé.

**10** Le sous-titre précédant l'article 71, les articles 71, 72 et 73, l'article 74, tel qu'il est modifié par l'article 25 du chapitre 32 des Lois de l'Ontario de 1982, ainsi que les articles 75, 76, 77 et 78 de la Loi sont abrogés.



**11. Subsection 136ka (9) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:**

Vacancies

(9) If a position on a joint committee or combined joint committee becomes vacant, the board that appointed the person whose position has become vacant shall appoint a qualified person to fill the vacancy for the remainder of the term of the person whose position has become vacant.

Quorum

(9a) A majority of the members of a joint committee or combined joint committee is a quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

Chair

(9b) The members of a joint committee or combined joint committee shall, at their first meeting, elect one of the members as chair who shall preside at all meetings and, if at any meeting the chair is not present, the members present may elect a chair for that meeting.

Chair voting

(9c) On every motion, the chair may vote with the other members of a joint committee or combined joint committee, and any motion on which there is an equality of votes is lost.

**12. Paragraph 7 of section 149 of the Act is repealed and the following substituted:**

**12 La disposition 7 de l'article 149 de la Loi est abrogée et remplacée par ce qui suit :**

7. provide or enter into an agreement with another board to provide special education programs and special education services, in the English language or, where a pupil is enrolled in a school or class established under Part XI, in the French language, for exceptional pupils,

- i. who are resident pupils of the board,
- ii. who have been admitted or enrolled by the board, other than pursuant to an agreement with another board for the provision of education, or
- iii. in respect of whom the cost of education is payable by the Minister to the board.

**13. Paragraph 40 of subsection 150 (1) of the Act is repealed.**

**13 La disposition 40 du paragraphe 150 (1) de la Loi est abrogée.**

**14. Section 182 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 50 and 1984, chapter 60, section 14, is repealed and the following substituted:**

**14 L'article 182 de la Loi, tel qu'il est modifié par l'article 50 du chapitre 32 des Lois de l'Ontario de 1982 et par l'article 14 du chapitre 60 des Lois de l'Ontario de 1984, est abrogé et remplacé par ce qui suit :**

Definition

**182.—(1)** In this section, "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of persons with behavioural, communicational, intellectual, physical or multiple exceptionalities.

Special education advisory committee

(2) Every board, other than a board established under section 70, shall establish a special education advisory committee.

Composition

(3) The advisory committee of a board that is not a district school area board, a Protestant separate school board, a combined separate school board, a rural separate school board or a secondary school board shall consist of,

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
  - (b) if the board provides a French-language instructional unit as defined in section 257a, one or more French-speaking persons as defined in that section, appointed by the board as representative of French-speaking ratepayers as defined in that section or as representative of French-speaking supporters of the board;
  - (c) if the board provides English-language schools or classes under sections 258 and 272, one or more persons who are English-speaking, appointed by the board as representative of the English-speaking ratepayers or supporters of the board;
  - (d) three members of the board, appointed by the board; and
  - (e) if the board wishes, one or more persons appointed by the board who,
    - (i) do not represent a local association or a group represented under clause (b) or (c), and
    - (ii) are not members of the board or another committee of the board.
- More than twelve local associations (4) If there are more than twelve local associations in the area of jurisdiction of the board, the board shall select the twelve local associations that shall be represented under clause (3) (a).
- Divisional board (5) In the case of a board that is a divisional board, if one or more of the members of the board are elected by separate school electors, one of the members appointed under clause (3) (d) shall be a member of the board elected by separate school electors.
- Composition (6) The advisory committee of a district school area board, a Protestant separate school board, a combined separate school board, a rural separate school board or a secondary school board shall consist of,
- (a) one representative from each of the local associations, not to exceed two, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board or, where there is no local association in the area of jurisdiction of the board, two persons appointed by the board who are not members of the board; and
  - (b) two members of the board, appointed by the board.
- Qualifications of members (7) Section 196, except clause (1) (a), applies with necessary modifications to members of the advisory committee.
- Idem (8) An employee of the board shall not be appointed to the advisory committee.
- Term of office (9) Persons appointed to the advisory committee shall hold office during the term of the members of the board and until the new board is organized.
- Application of subss. 136ka (9-9c) and s. 206 (10) Subsections 136ka (9) to (9c) and section 206 apply with necessary modifications to the advisory committee.
- Personnel and facilities (11) The board shall provide such personnel and facilities as the board considers necessary to enable the advisory committee to carry out its functions.
- Recommendations (12) The advisory committee may make recommendations to the board in respect of any matter affecting special education programs and services provided by the board.



Opportunity  
to be heard

(13) Before making a decision on a recommendation of the advisory committee, the board shall provide an opportunity for the advisory committee to be heard before the board and before any committee of the board to which the recommendation is referred.

French-  
language  
and English-  
language  
sections

(14) If a board has a French-language section or an English-language section under Part XI-A, the section may establish a special education advisory committee for the section.

Idem

(15) If a French-language section or English-language section establishes an advisory committee under subsection (14),

(a) subsection (2) does not apply to the board; and

(b) the members of the board who are not members of the section shall establish a special education advisory committee for the members of the board who are not members of the section.

Application  
of subss. (3)  
to (13)

(16) Subsections (3) to (13), except clauses (3) (b) and (c) and subsection (5), apply with necessary modifications to the advisory committees established under subsections (14) and (15) and, for that purpose, a reference in subsections (3) to (13) to the "board" shall be deemed to be a reference to,

(a) the section, in the case of an advisory committee established under subsection (14); and

(b) the members of the board who are not members of the section, in the case of an advisory committee established under clause (15) (b).

Qualifica-  
tions

(17) No person shall be appointed to an advisory committee established by a French-language section or an English-language section under subsection (14) unless the person meets the qualifications established by subsection 277h (1) for an elector in respect of the section.

**15. Subsection 209 (3) of the Act is repealed.**

**15 Le paragraphe 209 (3) de la Loi est abrogé.**

**16. Part XII of the Act is repealed.**

**16 La partie XII de la Loi est abrogée.**

#### MUNICIPALITY OF METROPOLITAN TORONTO ACT

#### LOI SUR LA MUNICIPALITÉ DE LA COMMUNAUTÉ URBAINE DE TORONTO

**17. Subsection 120b (2) of the *Municipality of Metropolitan Toronto Act*, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is amended by striking out "Subject to section 120f" in the first line.**

**17 Le paragraphe 120b (2) de la loi intitulée *Municipality of Metropolitan Toronto Act* («*Loi sur la municipalité de la communauté urbaine de Toronto*»), tel qu'il est adopté par l'article 13 du chapitre 29 des Lois de l'Ontario de 1986, est modifié par suppression de «Subject to section 120f» à la première ligne.**

**18. Section 120f of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 13, is repealed.**

**18 L'article 120f de la Loi, tel qu'il est adopté par l'article 13 du chapitre 29 des Lois de l'Ontario de 1986, est abrogé.**

**19. Section 127 of the Act is amended by adding the following subsection:**

**19 L'article 127 de la Loi est modifié par adjonction du paragraphe suivant :**

Exceptional  
pupils with  
develop-  
mental hand-  
icaps

(2a) The School Board shall provide consulting services and support services to the boards of education in the Metropolitan Area and the Council in respect of special education programs and special education services for exceptional pupils with developmental handicaps.

**20. The Act is amended by adding the following sections:**

**20 La Loi est modifiée par adjonction des articles suivants :**

Exceptional  
pupils with  
develop-  
mental hand-  
icaps

**146a.—(1) The School Board shall,**

	<p>(a) continue to operate schools and classes for exceptional pupils with developmental handicaps who are qualified to be exceptional pupils of a board of education in the Metropolitan Area or the Council; and</p> <p>(b) provide special education programs and special education services for exceptional pupils who attend schools and classes referred to in clause (a).</p>
Idem	<p>(2) Despite paragraph 7 of section 149 of the <i>Education Act</i> and subsection 120b (2) of this Act, a board of education in the Metropolitan Area and the Council shall not provide special education programs or special education services for exceptional pupils who attend schools and classes referred to in clause (1) (a).</p>
Board of education may assume responsibilities	<p>(3) By resolution, a board of education in the Metropolitan Area may direct that, after a date specified in the resolution,</p> <p>(a) subsection (1) does not apply in respect of exceptional pupils who are qualified to be exceptional pupils of the board of education; and</p> <p>(b) subsection (2) does not apply to the board of education.</p>
Council may assume responsibilities	<p>(4) By resolution, the Council may direct that, after a date specified in the resolution,</p> <p>(a) the School Board shall not operate schools or classes under subsection (1) in which French is the language of instruction; and</p> <p>(b) subsection (2) does not apply to the Council.</p>
Advisory committee	<p>(5) The advisory committee on schools for trainable retarded pupils established by the School Board under section 74 of the <i>Education Act</i> that exists immediately before this subsection comes into force is continued as an advisory committee to the School Board for exceptional pupils with developmental handicaps for as long as the School Board operates schools or classes under subsection (1), and subsections 182 (10) to (13) of the <i>Education Act</i> apply with necessary modifications to the advisory committee.</p>
Transition	<p>(6) An exceptional pupil who was identified under the <i>Education Act</i> as a trainable retarded pupil before subsection (1) comes into force shall be deemed to be an exceptional pupil with a developmental handicap for the purpose of this section.</p>
Repeal	<p><b>(7) This section is repealed on the 1st day of January, 1995.</b></p>
Adults with developmental handicaps	<p><b>146b.</b>—(1) The School Board may, subject to the regulations in respect of continuing education courses and classes, provide during the school day or outside the school day a program for adults who,</p> <p>(a) have developmental handicaps;</p> <p>(b) are not qualified by reason of age to attend a school or class provided under clause 146a (1) (a); and</p> <p>(c) are otherwise qualified to be resident pupils or were pupils in a school or class,</p> <p>(i) operated under clause 146a (1) (a),</p> <p>(ii) operated for exceptional pupils with developmental handicaps by a board of education or the Council, or</p> <p>(iii) operated by the School Board for trainable retarded pupils before this subsection comes into force.</p>
Board of education may assume responsibilities	<p>(2) By resolution, a board of education in the Metropolitan Area may direct that, after a date specified in the resolution,</p>

- (a) the School Board shall not provide programs under subsection (1) to adults who are not qualified by reason of age to attend a school or class provided by the board of education but are otherwise qualified to be resident pupils of the board of education; and
- (b) subsection (3) applies to the board of education.
- Adults with developmental handicaps (3) A board of education in the Metropolitan Area may, subject to the regulations in respect of continuing education courses and classes, provide during the school day or outside the school day a program for adults who,
- (a) have developmental handicaps;
- (b) are not qualified by reason of age to attend a school or class provided by the board of education; and
- (c) are otherwise qualified to be resident pupils of a board of education or were pupils in a school or class,
- (i) operated for exceptional pupils with developmental handicaps by a board of education or the Council, or
- (ii) operated for trainable retarded pupils or exceptional pupils with developmental handicaps by the School Board before this subsection applied to the board of education.
- Idem (4) Subsection (3) does not apply to a board of education until the date specified by the board of education under subsection (2) or the 1st day of January, 1995, whichever occurs first.
- Council may assume responsibilities (5) By resolution, the Council may direct that, after a date specified in the resolution,
- (a) the School Board shall not provide programs under subsection (1) in which French is the language of instruction; and
- (b) subsection (6) applies to the Council.
- French-language adult programs (6) The Council may, subject to the regulations in respect of continuing education courses or classes, provide during the school day or outside the school day a program in the French language for adults who,
- (a) have developmental handicaps;
- (b) are not qualified by reason of age to attend a school or class provided by the Council; and
- (c) are otherwise qualified to be resident pupils of the Council or were pupils in a school or class,
- (i) operated for exceptional pupils with developmental handicaps by the Council or a board of education, or
- (ii) operated for trainable retarded pupils or exceptional pupils with developmental handicaps by the School Board before this subsection applied to the Council.
- Idem (7) Subsection (6) does not apply until the date specified by the Council under subsection (5) or the 1st day of January, 1995, whichever occurs first.
- Repeal (8) Subsections (1), (2), (4), (5) and (7) are repealed on the 1st day of January, 1995.

OTTAWA-CARLETON FRENCH-LANGUAGE  
SCHOOL BOARD ACT, 1988

**21.** Paragraph 5 of subsection 4 (1) of the  
*Ottawa-Carleton French-Language School*

LOI DE 1988 SUR LE CONSEIL DE LANGUE  
FRANÇAISE D'OTTAWA-CARLETON

**21** La disposition 5 du paragraphe 4 (1) de  
la *Loi de 1988 sur le Conseil scolaire de langue*



***Board Act, 1988 is repealed and the following substituted:***

5. Vocational courses.

**22. Section 25 of the Act is amended by adding the following subsection:**

(3a) Section 182 of the *Education Act*, except clauses (3) (b) and (c), applies with necessary modifications to each sector as if each sector were a board.

Special  
education  
advisory  
committees

Commence-  
ment

**23. This Act comes into force on the 1st day of January, 1992.**

Short title

**24. The short title of this Act is the *Special Education Statute Law Amendment Act, 1991*.**

***française d'Ottawa-Carleton est abrogée et remplacée par ce qui suit :***

5. Les cours de formation professionnelle.

**22 L'article 25 de la Loi est modifié par adjonction du paragraphe suivant :**

(3a) L'article 182 de la *Loi sur l'éducation*, à l'exclusion des alinéas (3) b) et c), s'applique, avec les adaptations nécessaires, à chacune des sections comme si elle était un conseil.

Comités con-  
sultatifs pour  
l'enfance en  
difficulté

**23 La présente loi entre en vigueur le 1<sup>er</sup> janvier 1992.**

Entrée en  
vigueur

**24 Le titre abrégé de la présente loi est *Loi de 1991 modifiant des lois en ce qui concerne l'enfance en difficulté*.**

Titre abrégé





Bill 115

Government Bill

Projet de loi 115

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 115

## Projet de loi 115

**An Act to amend the Retail Business  
Holidays Act and the Employment  
Standards Act in respect of the opening  
of retail business establishments and  
employment in them**

**Loi modifiant la Loi sur les jours fériés  
dans le commerce de détail et la Loi sur  
les normes d'emploi en ce qui concerne  
l'ouverture des établissements de  
commerce de détail et l'emploi dans ces  
établissements**

**The Hon. M. Farnan**  
Solicitor General

**L'honorable M. Farnan**  
Solliciteur général



1st Reading     June 4th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture     4 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

## EXPLANATORY NOTES

The Bill has two principal purposes. First, it amends the *Retail Business Holidays Act* with respect to the operation of retail business establishments on Sundays and other holidays (Part I of the Bill). Secondly, it amends the *Employment Standards Act* with respect to employment in retail business establishments (Part II of the Bill).

### PART I

#### RETAIL BUSINESS HOLIDAYS ACT AMENDMENTS

Part I of the Bill establishes the principle that retail business holidays are common pause days and that municipalities should not use their exemption power to permit retail business establishments to open on holidays except to maintain or develop tourism. (Proposed subsections 4 (1) to (3) of the *Retail Business Holidays Act*)

The present section 4 of the *Retail Business Holidays Act* which relates to the opening and closing of retail business establishments under municipal by-laws and under provincial regulations is replaced. The proposed section 4 (as set out in subsection 1 (1) of the Bill) permits municipalities to pass by-laws that provide for the opening of retail business establishments if the tourism criteria set out in the regulations that will be made under the Act are met.

Persons carrying on retail businesses in a municipality will be able to apply individually or in combination or through a representative organization for a by-law. The council will be required to hold a public hearing before passing a by-law. However, it need not pass the by-law even if the tourism criteria are met. The council's decision will be final. Provision is made for procedural matters related to applications.

Under the proposed section 4.1 of the *Retail Business Holidays Act*, the Lieutenant Governor in Council will be authorized to permit the opening of retail business establishments in those parts of Ontario that do not have municipal organization.

The proposed section 4.2 of the *Retail Business Holidays Act* sets out matters that may be dealt with in a by-law or regulation under section 4 or 4.1.

Part I of the Bill also,

- (a) continues by-laws related to openings and closings on holidays until the first anniversary of the coming into force of the Bill if the by-laws were in force before the day of first reading; by-laws related to opening or closing that come into force on or after the day of first reading will be repealed; (Subsection 1 (2) of the Bill)
- (b) establishes a minimum fine of \$500 for a first offence and \$2,000 for subsequent offences; this will not apply to employees who contravene subsection 2 (2) of the Act; (Subsection 1 (3) of the Bill)
- (c) corrects an error in subsection 8 (2) of the Act. (Subsection 1 (4) of the Bill)

## NOTES EXPLICATIVES

Le projet de loi a deux grands objets : premièrement, il modifie la *Loi sur les jours fériés dans le commerce de détail* en ce qui concerne l'ouverture des établissements de commerce de détail le dimanche et les autres jours fériés (partie I du projet de loi); deuxièmement, il modifie la *Loi sur les normes d'emploi* en ce qui concerne l'emploi dans les établissements de commerce de détail (partie II du projet de loi).

### PARTIE I

#### MODIFICATIONS APPORTÉES À LA LOI SUR LES JOURS FÉRIÉS DANS LE COMMERCE DE DÉTAIL

La partie I du projet de loi établit le principe voulant que les jours fériés dans le commerce de détail soient des jours de repos communs et que les municipalités ne devraient pas exercer leur pouvoir d'exemption pour autoriser l'ouverture des établissements de commerce de détail un jour férié, sauf dans le but de maintenir ou de développer le tourisme. (Nouveaux paragraphes 4 (1) à (3) de la *Loi sur les jours fériés dans le commerce de détail*)

L'article 4 actuel de la *Loi sur les jours fériés dans le commerce de détail*, qui se rapporte à l'ouverture et à la fermeture des établissements de commerce de détail en vertu de règlements municipaux et de règlements, est remplacé. Le nouvel article 4 (qui se trouve au paragraphe 1 (1) du projet de loi) permet aux municipalités d'autoriser, par règlement municipal, l'ouverture des établissements de commerce de détail si les critères concernant le tourisme énoncés dans les règlements qui seront pris en application de la Loi sont respectés.

Les personnes qui exploitent un commerce de détail dans une municipalité peuvent présenter une demande seules, avec quelqu'un d'autre ou par l'entremise d'une organisation représentative pour obtenir l'adoption d'un règlement municipal. Le conseil doit tenir une audience publique avant de le faire. Cependant, il n'est pas obligé d'adopter le règlement municipal même si les critères concernant le tourisme sont respectés. La décision du conseil est sans appel. Il est question de la marche à suivre en ce qui a trait aux demandes.

En vertu du nouvel article 4.1 de la *Loi sur les jours fériés dans le commerce de détail*, le lieutenant-gouverneur en conseil peut autoriser l'ouverture des établissements de commerce de détail dans les territoires de la province non érigés en municipalité.

Le nouvel article 4.2 de la *Loi sur les jours fériés dans le commerce de détail* énonce les questions qui peuvent être traitées par voie de règlement municipal ou de règlement en vertu de l'article 4 ou 4.1.

La partie I du projet de loi, par ailleurs :

- a) maintient les règlements municipaux existants concernant l'ouverture et la fermeture un jour férié jusqu'au premier anniversaire de l'entrée en vigueur du projet de loi s'ils étaient en vigueur avant le jour de la première lecture; les règlements municipaux concernant l'ouverture ou la fermeture qui entrent en vigueur ce jour-là ou après ce jour seront abrogés; (paragraphe 1 (2) du projet de loi)
- b) établit une amende minimale de 500 \$ pour une première infraction et de 2 000 \$ en cas de récidive, mais cela ne s'applique pas aux employés qui enfreignent le paragraphe 2 (2) de la Loi; (paragraphe 1 (3) du projet de loi)
- c) corrige une erreur au paragraphe 8 (2) de la Loi. (paragraphe 1 (4) du projet de loi)

## PART II

### EMPLOYMENT STANDARDS ACT AMENDMENTS

Part II of the Bill has two purposes: first, to ensure that employers in most retail business establishments allow their employees thirty-six consecutive hours off in every seven-day period (proposed section 39ea of the *Employment Standards Act*); and second, to ensure that employees in most retail business establishments are entitled to refuse work on Sundays and other holidays as defined in the *Retail Business Holidays Act* (proposed section 39eb of the *Employment Standards Act*). These rights and obligations do not apply to employers and employees in establishments in the hospitality sector.

The present Act permits an employee to refuse Sunday work that the employee considers unreasonable, and to refuse work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act* (work on holidays).

The Bill amends only the English versions of the *Retail Business Holidays Act* and the *Employment Standards Act*. The Legislature has not yet adopted official French versions of these Acts.

## PARTIE II

### MODIFICATIONS APPORTÉES À LA LOI SUR LES NORMES D'EMPLOI

La partie II du projet de loi a deux objets : premièrement, faire en sorte que les employeurs de la plupart des établissements de commerce de détail accordent à leurs employés trente-six heures consécutives de repos au cours de chaque période de sept jours (nouvel article 39ea de la *Loi sur les normes d'emploi*) et, deuxièmement, assurer aux employés de la plupart des établissements de commerce de détail le droit de refuser de travailler le dimanche et les autres jours fériés au sens de la *Loi sur les jours fériés dans le commerce de détail* (nouvel article 39eb de la *Loi sur les normes d'emploi*). Ces droits et obligations ne s'appliquent pas aux employeurs et aux employés d'établissements du secteur de l'accueil.

La loi actuelle permet à un employé de refuser de travailler le dimanche s'il estime que l'attribution de travail est déraisonnable, et de refuser du travail contrevenant au paragraphe 2 (2) de la *Loi sur les jours fériés dans le commerce de détail* (travail les jours fériés).

Le projet de loi ne modifie que la version anglaise de la *Loi sur les jours fériés dans le commerce de détail* et de la *Loi sur les normes d'emploi*, la Législature n'ayant pas encore adopté de version française officielle de ces lois.





**An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them**

**Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**PART I**

**RETAIL BUSINESS HOLIDAYS ACT**

**1.—(1)** Section 4 of the *Retail Business Holidays Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 4, is repealed and the following substituted:

Tourism  
exemption

**4.—(1)** Despite section 2, the council of a municipality may by by-law permit retail business establishments in the municipality to be open on holidays for the maintenance or development of tourism.

Common  
pause day  
principle

(2) The council in passing a by-law under subsection (1) shall take into account the principle that holidays should be maintained as common pause days.

Tourism  
criteria

(3) A by-law may be passed under subsection (1) only if there is compliance with the tourism criteria set out in the regulations made under this section.

Application  
for by-law

(4) Subject to the regulations made under this section, the council shall consider a by-law under subsection (1) only on the application of one or more persons carrying on retail business in the municipality or on the application of an association, whether or not incorporated, representing persons carrying on retail business in the municipality.

Application  
by local  
municipality

(5) In a district, metropolitan or regional municipality and in the County of Oxford, the council of a local municipality may also apply for a by-law under subsection (1).

Hearing  
required

(6) The council shall hold a public hearing before passing the by-law.

Council not  
obligated

(7) The council is not required to pass the by-law even if the tourism criteria are met.

Decision  
final

(8) The council's decision is final.

Procedures

(9) Subject to the regulations made under this section, the council may,

(a) establish procedures and fees for the processing of applications;

**PARTIE I**

**LOI SUR LES JOURS FÉRIÉS DANS LE  
COMMERCE DE DÉTAIL**

**1 (1)** L'article 4 de la loi intitulée *Retail Business Holidays Act* («*Loi sur les jours fériés dans le commerce de détail*»), tel qu'il est adopté de nouveau par l'article 4 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

- (b) combine two or more applications;
  - (c) hold one hearing with respect to two or more applications;
  - (d) limit the number of applications that will be considered in any year.
- Regulations (10) The Lieutenant Governor in Council may make regulations,
- (a) prescribing tourism criteria for the purposes of this section;
  - (b) governing the procedures and fees for processing applications, the combining of applications and hearings and limitations on the number of hearings by a council;
  - (c) setting out the contents of the application;
  - (d) requiring that a by-law that applies to a retail business establishment within such class of retail business establishments as may be set out in the regulation may be considered only on the application of the person carrying on the business.
- Idem (11) A regulation under clause (10) (a) or (d) may classify retail business establishments and may prescribe different tourism criteria for the different classes of retail business establishments.
- Unorganized territory **4.1** The Lieutenant Governor in Council may by regulation permit retail business establishments in territory without municipal organization to be open on holidays.
- Contents of by-laws and regulations **4.2** A by-law under section 4 or a regulation under section 4.1,
- (a) may apply to one or more retail business establishments or to one or more classes of retail business establishments;
  - (b) may apply to all or any part or parts of the municipality in case of a by-law or to all or any part of a territory without municipal organization in the case of a regulation;
  - (c) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;
  - (d) may permit the opening of retail business establishments on some holidays and not on others;
  - (e) may restrict the opening of retail business establishments on holidays to specific periods of the year;
  - (f) may classify retail business establishments.

**(2) Subsection 6 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is repealed and the following substituted:**

**(2) Le paragraphe 6 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Transitional

(2) The following transitional rules apply to the by-laws of municipalities that were in force under this or any other Act immediately before the coming into force of subsection 1 (2) of the *Retail Business Establishments Statute Law Amendment Act, 1991* and that relate to the opening or closing of a retail business establishment on holidays:

1. By-laws in force on the 3rd day of June, 1991 continue in force until the first anniversary of that subsection coming into force or until the by-law is repealed, whichever is first.
2. By-laws that come into force on or after the 4th day of June, 1991 are repealed on the day on which that subsection comes into force.

(3) Section 7 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is amended by adding the following subsection:

Minimum  
penalty

(3.1) The minimum fine for an offence under this Act, other than for a contravention of subsection 2 (2), is \$500 for a first offence and \$2,000 for any subsequent offence.

(4) Subsection 8 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is amended by striking out “other” in the second line.

(3) L'article 7 de la Loi, tel qu'il est adopté de nouveau par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

(4) Le paragraphe 8 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est modifié par suppression de «other» à la deuxième ligne.

## PART II

### EMPLOYMENT STANDARDS ACT

**2.—**(1) Part XI-B of the *Employment Standards Act*, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1 and amended by 1989, chapter 4, section 2, is repealed and the following substituted:

## PARTIE II

### LOI SUR LES NORMES D'EMPLOI

**2** (1) La partie XI-B de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), telle qu'elle est adoptée par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988 et modifiée par l'article 2 du chapitre 4 des Lois de l'Ontario de 1989, est abrogée et remplacée par ce qui suit :

## PART XI-B

### RETAIL BUSINESS ESTABLISHMENTS

Application

**39e.—**(1) This Part applies with respect to retail business establishments as defined in subsection 1 (1) of the *Retail Business Holidays Act* to the employees and employers in those establishments and to persons acting on behalf of those employers.

Non-applica-  
tion

(2) This Part does not apply with respect to retail business establishments in which the primary retail business is one,

- (a) that sells prepared meals;
- (b) that rents living accommodations;
- (c) that is open to the public for educational, recreational or amusement purposes; or
- (d) that sells goods or services incidental to a business described in clause (a), (b) or (c) and that is located in the same premises as the business.

Period of  
rest

**39ea.** In every seven-day period, an employer shall allow each employee at least thirty-six consecutive hours of rest.

Right to  
refuse work

**39eb.—**(1) An employee may refuse an assignment of work on a Sunday or other holiday as defined in subsection 1 (1) of the *Retail Business Holidays Act*.

Notice of  
refusal

(2) An employee who accepts an assignment of work on a Sunday or other holiday may then refuse the assignment only upon giving the employer notice at least forty-eight hours before the first hour of the work on the Sunday or holiday.

Prohibition

**39ec.** No employer or person acting on behalf of an employer shall dismiss, threaten to dismiss, discipline, suspend, lay off, intimidate, coerce or impose a penalty on an employee,

- (a) because the employee has refused, or attempted to refuse, an assignment of work on a Sunday or other holiday if the employee is permitted to do so under section 39eb; or
- (b) because the employee seeks to enforce his or her rights under this Part.



Order by  
E.S.O.

**39f.**—(1) If an employer fails to comply with section 39ea or contravenes section 39ec, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with the section and may make an order to reinstate or recall the employee with or without compensation or to compensate the employee in lieu of reinstatement or recall for loss of earnings or other employment benefits.

Compensa-  
tion

(2) When ordering the employer to compensate the employee, the employment standards officer shall determine the amount of the compensation.

(2) Clause 57 (1)(ea) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 4, is repealed and the following substituted:

(2) L'alinéa 57 (1)(ea) de la Loi, tel qu'il est adopté par l'article 4 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

(ea) has sought to enforce his or her rights under section 39ea;

(eb) has exercised a right to refuse work under section 39eb.

### PART III

#### COMMENCEMENT AND SHORT TITLE

Commence-  
ment

**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**4.** The short title of this Act is the *Retail Business Establishments Statute Law Amendment Act, 1991*.

### PARTIE III

#### ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

**3** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant des lois en ce qui concerne les établissements de commerce de détail*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 115

**An Act to amend the Retail Business  
Holidays Act and the Employment  
Standards Act in respect of the opening  
of retail business establishments and  
employment in them**

**The Hon. A. Pilkey**  
Solicitor General

1st Reading     June 4th, 1991  
2nd Reading     June 17th, 1991  
3rd Reading  
Royal Assent

*(Reprinted as amended by the Administration of  
Justice Committee)*

## Projet de loi 115

**Loi modifiant la Loi sur les jours fériés  
dans le commerce de détail et la Loi sur  
les normes d'emploi en ce qui concerne  
l'ouverture des établissements de  
commerce de détail et l'emploi dans ces  
établissements**

**L'honorable A. Pilkey**  
Solliciteur général



1<sup>re</sup> lecture     4 juin 1991  
2<sup>e</sup> lecture     17 juin 1991  
3<sup>e</sup> lecture  
sanction royale

*(Réimprimé tel qu'il est modifié par le Comité de  
l'administration de la justice)*

## EXPLANATORY NOTES

The Bill has two principal purposes. First, it amends the *Retail Business Holidays Act* with respect to the operation of retail business establishments on Sundays and other holidays (Part I of the Bill). Secondly, it amends the *Employment Standards Act* with respect to employment in retail business establishments (Part II of the Bill).

### PART I RETAIL BUSINESS HOLIDAYS ACT

Part I of the Bill establishes the principle that retail business holidays are common pause days and that municipalities should not use their exemption power to permit retail business establishments to open on holidays except to maintain or develop tourism. (Proposed subsections 4 (1) to (3) of the *Retail Business Holidays Act*)

The present section 4 of the *Retail Business Holidays Act* which relates to the opening and closing of retail business establishments under municipal by-laws and under provincial regulations is replaced. The proposed section 4 (as set out in subsection 1 (1) of the Bill) permits municipalities to pass by-laws that provide for the opening of retail business establishments if the tourism criteria set out in the regulations that will be made under the Act are met.

Persons carrying on retail businesses in a municipality will be able to apply individually or in combination or through a representative organization for a by-law. The council will be required to hold a public meeting before passing a by-law. However, it need not pass the by-law even if the tourism criteria are met. Provision is made for procedural matters related to applications.

Under the proposed section 4.1 of the *Retail Business Holidays Act*, the Lieutenant Governor in Council will be authorized to permit the opening of retail business establishments in those parts of Ontario that do not have municipal organization.

The proposed section 4.2 of the *Retail Business Holidays Act* sets out matters that may be dealt with in a by-law or regulation under section 4 or 4.1.

The proposed section 4.3 of the *Retail Business Holidays Act* permits a by-law passed under section 4 to be appealed to the Ontario Municipal Board.

The proposed section 4.4 of the *Retail Business Holidays Act* permits retail business establishments to be open on the Sundays in December preceding Christmas Day. (Subsection 1 (2) of the Bill)

Part I of the Bill also,

- (a) continues by-laws related to openings and closings on holidays until the first anniversary of the coming into force of the Bill if the by-laws were in force before the day of first reading; by-laws related to opening or closing that come into force on or after the day of first reading will be repealed; (Subsection 1 (3) of the Bill)
- (b) establishes a minimum fine of \$500 for a first offence, \$2,000 for a second offence and \$5,000 for subsequent offences; this will not apply to employees who contravene subsection 2 (2) of the Act; (Subsection 1 (4) of the Bill)

## NOTES EXPLICATIVES

Le projet de loi a deux grands objets : premièrement, il modifie la *Loi sur les jours fériés dans le commerce de détail* en ce qui concerne l'ouverture des établissements de commerce de détail le dimanche et les autres jours fériés (partie I du projet de loi); deuxièmement, il modifie la *Loi sur les normes d'emploi* en ce qui concerne l'emploi dans les établissements de commerce de détail (partie II du projet de loi).

### PARTIE I LOI SUR LES JOURS FÉRIÉS DANS LE COMMERCE DE DÉTAIL

La partie I du projet de loi établit le principe voulant que les jours fériés dans le commerce de détail soient des jours de repos communs et que les municipalités ne devraient pas exercer leur pouvoir d'exemption pour autoriser l'ouverture des établissements de commerce de détail un jour férié, sauf dans le but de maintenir ou de développer le tourisme. (Nouveaux paragraphes 4 (1) à (3) de la *Loi sur les jours fériés dans le commerce de détail*)

L'article 4 actuel de la *Loi sur les jours fériés dans le commerce de détail*, qui se rapporte à l'ouverture et à la fermeture des établissements de commerce de détail en vertu de règlements municipaux et de règlements, est remplacé. Le nouvel article 4 (qui se trouve au paragraphe 1 (1) du projet de loi) permet aux municipalités d'autoriser, par règlement municipal, l'ouverture des établissements de commerce de détail si les critères concernant le tourisme énoncés dans les règlements qui seront pris en application de la Loi sont respectés.

Les personnes qui exploitent un commerce de détail dans une municipalité peuvent présenter une demande seules, avec quelqu'un d'autre ou par l'entremise d'une organisation représentative pour obtenir l'adoption d'un règlement municipal. Le conseil doit tenir une réunion publique avant de le faire. Cependant, il n'est pas obligé d'adopter le règlement municipal même si les critères concernant le tourisme sont respectés. Il est question de la marche à suivre en ce qui a trait aux demandes.

En vertu du nouvel article 4.1 de la *Loi sur les jours fériés dans le commerce de détail*, le lieutenant-gouverneur en conseil peut autoriser l'ouverture des établissements de commerce de détail dans les territoires de la province non érigés en municipalité.

Le nouvel article 4.2 de la *Loi sur les jours fériés dans le commerce de détail* énonce les questions qui peuvent être traitées par voie de règlement municipal ou de règlement en vertu de l'article 4 ou 4.1.

Le nouvel article 4.3 de la *Loi sur les jours fériés dans le commerce de détail* permet l'appel, devant la Commission des affaires municipales de l'Ontario, d'un règlement municipal adopté aux termes de l'article 4.

Le nouvel article 4.4 de la *Loi sur les jours fériés dans le commerce de détail* permet aux établissements de commerce de détail d'ouvrir les dimanches qui précèdent le jour de Noël en décembre. (Paragraphe 1 (2) du projet de loi)

La partie I du projet de loi, par ailleurs :

- a) maintient les règlements municipaux existants concernant l'ouverture et la fermeture un jour férié jusqu'au premier anniversaire de l'entrée en vigueur du projet de loi s'ils étaient en vigueur avant le jour de la première lecture; les règlements municipaux concernant l'ouverture ou la fermeture qui entrent en vigueur ce jour-là ou après ce jour seront abrogés; (paragraphe 1 (3) du projet de loi)
- b) établit une amende minimale de 500 \$ pour une première infraction, de 2 000 \$ pour une deuxième infraction et de 5 000 \$ pour les infractions subséquentes, mais cela ne s'applique pas aux employés qui enfreignent le paragraphe 2 (2) de la Loi; (paragraphe 1 (4) du projet de loi)



- (c) permits any interested person to make an application to the Ontario Court (General Division) to enforce compliance with the *Retail Business Holidays Act*. (Subsection 1 (5) of the Bill)

## **PART II**

### **EMPLOYMENT STANDARDS ACT**

Part II of the Bill has two purposes: first, to ensure that employers in most retail business establishments allow their employees thirty-six consecutive hours off in every seven-day period (proposed section 39ea of the *Employment Standards Act*); and second, to ensure that employees in most retail business establishments are entitled to refuse work on Sundays and other holidays as defined in the *Retail Business Holidays Act* (proposed section 39eb of the *Employment Standards Act*). These rights and obligations do not apply to employers and employees in establishments in the hospitality sector.

The present Act permits an employee to refuse Sunday work that the employee considers unreasonable, and to refuse work that is a contravention of subsection 2 (2) of the *Retail Business Holidays Act* (work on holidays).

The Bill amends only the English versions of the *Retail Business Holidays Act* and the *Employment Standards Act*. The Legislature has not yet adopted official French versions of these Acts.

- c) permet à tout intéressé de demander à la Cour de l'Ontario (Division générale), par voie de requête, de faire respecter la *Loi sur les jours fériés dans le commerce de détail*. (Paragraphe 1 (5) du projet de loi)

## **PARTIE II**

### **LOI SUR LES NORMES D'EMPLOI**

La partie II du projet de loi a deux objets : premièrement, faire en sorte que les employeurs de la plupart des établissements de commerce de détail accordent à leurs employés trente-six heures consécutives de repos au cours de chaque période de sept jours (nouvel article 39ea de la *Loi sur les normes d'emploi*) et, deuxièmement, assurer aux employés de la plupart des établissements de commerce de détail le droit de refuser de travailler le dimanche et les autres jours fériés au sens de la *Loi sur les jours fériés dans le commerce de détail* (nouvel article 39eb de la *Loi sur les normes d'emploi*). Ces droits et obligations ne s'appliquent pas aux employeurs et aux employés d'établissements du secteur de l'accueil.

La loi actuelle permet à un employé de refuser de travailler le dimanche s'il estime que l'attribution de travail est déraisonnable, et de refuser du travail contrevenant au paragraphe 2 (2) de la *Loi sur les jours fériés dans le commerce de détail* (travail les jours fériés).

Le projet de loi ne modifie que la version anglaise de la *Loi sur les jours fériés dans le commerce de détail* et de la *Loi sur les normes d'emploi*, la Législature n'ayant pas encore adopté de version française officielle de ces lois.





**An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them**

**Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**PART I  
RETAIL BUSINESS HOLIDAYS ACT**

**1.—(1)** Section 4 of the *Retail Business Holidays Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 4, is repealed and the following substituted:

Tourism  
exemption

**4.—(1)** Despite section 2, the council of a municipality may by by-law permit retail business establishments in the municipality to be open on holidays for the maintenance or development of tourism.

Common  
pause day  
principle

(2) The council in passing a by-law under subsection (1) shall take into account the principle that holidays should be maintained as common pause days.

Tourism  
criteria

(3) A by-law may be passed under subsection (1) only if there is compliance with the tourism criteria set out in the regulations made under this section.

Application  
for by-law

(4) Subject to the regulations made under this section, the council shall consider a by-law under subsection (1) only on the application of one or more persons carrying on retail business in the municipality or on the application of an association, whether or not incorporated, representing persons carrying on retail business in the municipality.

Application  
by local  
municipality

(5) In a district, metropolitan or regional municipality and in the County of Oxford, the council of a local municipality may also apply for a by-law under subsection (1).

Public  
meeting

- ➡
- (6) Before passing a by-law under subsection (1), the council,
- (a) shall hold a public meeting in respect of the proposed by-law;
  - (b) shall publish notice of the public meeting in a newspaper having general circulation in the municipality at least thirty days before the meeting is to be held; and
  - (c) shall permit any person who attends the public meeting the opportunity to make representations in respect of the proposed by-law.
- ➡

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**PARTIE I  
LOI SUR LES JOURS FÉRIÉS DANS LE  
COMMERCE DE DÉTAIL**

**1** (1) L'article 4 de la loi intitulée *Retail Business Holidays Act* («*Loi sur les jours fériés dans le commerce de détail*»), tel qu'il est adopté de nouveau par l'article 4 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :


Council not obligated	(7) The council is not required to pass the by-law even if the tourism criteria are met.
Commencement of by-law	(8) Subject to section 4.3, a by-law under this section comes into force on the thirty-first day after it is passed by the council.
Procedures	<p>(9) Subject to the regulations made under this section, the council may,</p> <ul style="list-style-type: none"> <li>(a) establish procedures and fees for the processing of applications;</li> <li>(b) combine two or more applications;</li> <li>(c) hold one <u>public meeting</u> with respect to two or more applications;</li> <li>(d) limit the number of applications that will be considered in any year.</li> </ul>
Regulations	<p>(10) The Lieutenant Governor in Council may make regulations,</p> <ul style="list-style-type: none"> <li>(a) prescribing tourism criteria for the purposes of this section;</li> <li>(b) governing the procedures and fees for processing applications, the combining of applications and public meetings and limitations on the number of public meetings held by a council;</li> <li>(c) setting out the contents of the application;</li> <li>(d) requiring that a by-law that applies to a retail business establishment within such class of retail business establishments as may be set out in the regulation may be considered only on the application of the person carrying on the business.</li> </ul>
Idem	(11) A regulation under clause (10) (a) or (d) may classify retail business establishments and may prescribe different tourism criteria for the different classes of retail business establishments.
Unorganized territory	<b>4.1</b> The Lieutenant Governor in Council may by regulation permit retail business establishments in territory without municipal organization to be open on holidays.
Contents of by-laws and regulations	<p><b>4.2</b> A by-law under section 4 or a regulation under section 4.1,</p> <ul style="list-style-type: none"> <li>(a) may apply to one or more retail business establishments or to one or more classes of retail business establishments;</li> <li>(b) may apply to all or any part or parts of the municipality in case of a by-law or to all or any part of a territory without municipal organization in the case of a regulation;</li> <li>(c) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;</li> <li>(d) may permit the opening of retail business establishments on some holidays and not on others;</li> <li>(e) may restrict the opening of retail business establishments on holidays to specific periods of the year;</li> <li>(f) may classify retail business establishments.</li> </ul>
Appeal to O.M.B.	<b>4.3—(1)</b> Any person who objects to a by-law made by the council of a municipality under section 4 may appeal to the Ontario Municipal Board by filing a notice of appeal with the Board setting out the objection to the by-law and the reasons in support of the objection.

Time for appeal	(2) The notice of appeal must be filed with the Board not later than thirty days after the day the by-law is passed by the council.
Dismissal without hearing	(3) The Board may, if it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before doing so shall notify the appellant and afford the appellant an opportunity to make representations as to the merits of the appeal.
Powers of O.M.B.	(4) The Board may, <ol style="list-style-type: none"> <li>dismiss the appeal;</li> <li>dismiss the appeal on the condition that the council amend the by-law in a manner specified by the Board; or</li> <li>quash the by-law.</li> </ol>
Commencement of by-law	(5) If one or more appeals are taken under this section, the by-law shall not come into force until, <ol style="list-style-type: none"> <li>the day all appeals have been dismissed under subsection (3) or clause (4) (a); or</li> <li>the day the by-law is amended in the manner specified by the Board under clause (4) (b).</li> </ol>
Correction of errors	(6) The Board may, without a hearing, correct an error in an order or decision under this section if the error arises from an accidental slip or omission.
<i>Ontario Municipal Board Act</i> , ss. 42, 94	(7) Sections 42 and 94 of the <i>Ontario Municipal Board Act</i> do not apply to an appeal under this section.
Time for decision	(8) The Board shall use its best efforts to decide appeals under this section within the period of time prescribed under subsection (9).
Regulations	(9) The Lieutenant Governor in Council may make regulations prescribing a period of time for the purpose of subsection (8).

**(2) The Act is amended by adding the following section**

**(2) La Loi est modifiée par adjonction de l'article suivant :**

Sundays in December

**4.4** Despite any other provision of this or any other Act or the by-laws or regulations under this or any other Act, a retail business may be carried on in a retail business establishment on the Sundays in December preceding Christmas Day. 

**(3) Subsection 6 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is repealed and the following substituted:**

**(3) Le paragraphe 6 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Transitional

(2) The following transitional rules apply to the by-laws of municipalities that were in force under this or any other Act immediately before the coming into force of subsection 1 (3) of the *Retail Business Establishments Statute Law Amendment Act, 1991* and that relate to the opening or closing of a retail business establishment on holidays:

1. By-laws in force on the 3rd day of June, 1991 continue in force until the first anniversary of that subsection coming into force or until the by-law is repealed, whichever is first.
2. By-laws that come into force on or after the 4th day of June, 1991 are repealed on the day on which that subsection comes into force.

**(4) Section 7 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 3, sec-**

**(4) L'article 7 de la Loi, tel qu'il est adopté de nouveau par l'article 6 du chapitre 3 des**



tion 6, is amended by adding the following subsection:

Minimum  
penalty

(3.1) The minimum fine for an offence under this Act, other than for a contravention of subsection 2 (2), is \$500 for a first offence, \$2,000 for a second offence and \$5,000 for a third or subsequent offence.

(5) Section 8 of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is amended by adding the following subsection:

Idem

(1a) In addition to its powers under subsection (1), the Ontario Court (General Division), on the application of any interested person, may order that a retail business establishment close on a holiday to ensure compliance with this Act or a by-law or regulation under this Act.

(6) Subsection 8 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is repealed and the following substituted:

Idem

(2) An order under subsection (1) or (1a) is in addition to any penalty that may be imposed and may be made whether or not a proceeding is commenced under the *Provincial Offences Act* for a contravention of section 2 or of a by-law or regulation under this Act.

## PART II

### EMPLOYMENT STANDARDS ACT

**2.—(1)** Part XI-B of the *Employment Standards Act*, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1 and amended by 1989, chapter 4, section 2, is repealed and the following substituted:

Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

(5) L'article 8 de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

(6) Le paragraphe 8 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

## PARTIE II

### LOI SUR LES NORMES D'EMPLOI

**2 (1)** La partie XI-B de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), telle qu'elle est adoptée par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988 et modifiée par l'article 2 du chapitre 4 des Lois de l'Ontario de 1989, est abrogée et remplacée par ce qui suit :

## PART XI-B

### RETAIL BUSINESS ESTABLISHMENTS

**Application** **39e.**—(1) This Part applies with respect to retail business establishments as defined in subsection 1 (1) of the *Retail Business Holidays Act* to the employees and employers in those establishments and to persons acting on behalf of those employers.

**Non-application** (2) This Part does not apply with respect to retail business establishments in which the primary retail business is one,

- (a) that sells prepared meals;
- (b) that rents living accommodations;
- (c) that is open to the public for educational, recreational or amusement purposes; or
- (d) that sells goods or services incidental to a business described in clause (a), (b) or (c) and that is located in the same premises as the business.

**Period of rest**

**39ea.** In every seven-day period, an employer shall allow each employee at least thirty-six consecutive hours of rest.

**Right to refuse work**

**39eb.**—(1) An employee may refuse an assignment of work on a Sunday or other holiday as defined in subsection 1 (1) of the *Retail Business Holidays Act*.

Notice of  
refusal

(2) An employee who accepts an assignment of work on a Sunday or other holiday may then refuse the assignment only upon giving the employer notice at least forty-eight hours before the first hour of the work on the Sunday or holiday.

Prohibition

**39ec.** No employer or person acting on behalf of an employer shall dismiss, threaten to dismiss, discipline, suspend, lay off, intimidate, coerce or impose a penalty on an employee,

- (a) because the employee has refused, or attempted to refuse, an assignment of work on a Sunday or other holiday if the employee is permitted to do so under section 39eb;
- (b) because the employee seeks to enforce his or her rights under this Part; or



- (c) because the employee,
  - (i) makes representations in respect of a proposed by-law under section 4 of the *Retail Business Holidays Act* at a public meeting under that section,
  - (ii) commences or participates in an appeal to the Ontario Municipal Board of a by-law made under section 4 of the *Retail Business Holidays Act*, or
  - (iii) commences or participates in a challenge in any court to a by-law made under section 4 of the *Retail Business Holidays Act*.



Order by  
E.S.O.

**39f.**—(1) If an employer fails to comply with section 39ea or contravenes section 39ec, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with the section and may make an order to reinstate or recall the employee with or without compensation or to compensate the employee in lieu of reinstatement or recall for loss of earnings or other employment benefits.

Compensa-  
tion

(2) When ordering the employer to compensate the employee, the employment standards officer shall determine the amount of the compensation.

(2) Clause 57 (1) (ea) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 4, is repealed and the following substituted:

(2) L'alinéa 57 (1) (ea) de la Loi, tel qu'il est adopté par l'article 4 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

- (ea) has sought to enforce his or her rights under section 39ea;
- (eb) has exercised a right to refuse work under section 39eb.

### PART III COMMENCEMENT AND SHORT TITLE

Commence-  
ment

**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**4.** The short title of this Act is the *Retail Business Establishments Statute Law Amendment Act, 1991*.

### PARTIE III ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

**3** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant des lois en ce qui concerne les établissements de commerce de détail*.

Titre abrégé









## Bill 115

*(Chapter 43  
Statutes of Ontario, 1991)*

**An Act to amend the Retail Business  
Holidays Act and the Employment  
Standards Act in respect of the opening  
of retail business establishments and  
employment in them**

**The Hon. A. Pilkey**  
Solicitor General

1st Reading	June 4th, 1991
2nd Reading	June 17th, 1991
3rd Reading	November 25th, 1991
Royal Assent	November 25th, 1991

## Projet de loi 115

*(Chapitre 43  
Lois de l'Ontario de 1991)*

**Loi modifiant la Loi sur les jours fériés  
dans le commerce de détail et la Loi sur  
les normes d'emploi en ce qui concerne  
l'ouverture des établissements de  
commerce de détail et l'emploi dans ces  
établissements**

**L'honorable A. Pilkey**  
Solliciteur général



1 <sup>re</sup> lecture	4 juin 1991
2 <sup>e</sup> lecture	17 juin 1991
3 <sup>e</sup> lecture	25 novembre 1991
sanction royale	25 novembre 1991



**An Act to amend the Retail Business Holidays Act and the Employment Standards Act in respect of the opening of retail business establishments and employment in them**

**Loi modifiant la Loi sur les jours fériés dans le commerce de détail et la Loi sur les normes d'emploi en ce qui concerne l'ouverture des établissements de commerce de détail et l'emploi dans ces établissements**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**PART I  
RETAIL BUSINESS HOLIDAYS ACT**

**PARTIE I  
LOI SUR LES JOURS FÉRIÉS DANS LE  
COMMERCE DE DÉTAIL**

**1.—(1)** Section 4 of the *Retail Business Holidays Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 4, is repealed and the following substituted:

**1 (1)** L'article 4 de la loi intitulée *Retail Business Holidays Act* («*Loi sur les jours fériés dans le commerce de détail*»), tel qu'il est adopté de nouveau par l'article 4 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

Tourism  
exemption

**4.—(1)** Despite section 2, the council of a municipality may by by-law permit retail business establishments in the municipality to be open on holidays for the maintenance or development of tourism.

Common  
pause day  
principle

(2) The council in passing a by-law under subsection (1) shall take into account the principle that holidays should be maintained as common pause days.

Tourism  
criteria

(3) A by-law may be passed under subsection (1) only if there is compliance with the tourism criteria set out in the regulations made under this section.

Application  
for by-law

(4) Subject to the regulations made under this section, the council shall consider a by-law under subsection (1) only on the application of one or more persons carrying on retail business in the municipality or on the application of an association, whether or not incorporated, representing persons carrying on retail business in the municipality.

Application  
by local  
municipality

(5) In a district, metropolitan or regional municipality and in the County of Oxford, the council of a local municipality may also apply for a by-law under subsection (1).

Public  
meeting

- (6) Before passing a by-law under subsection (1), the council,
- (a) shall hold a public meeting in respect of the proposed by-law;
  - (b) shall publish notice of the public meeting in a newspaper having general circulation in the municipality at least thirty days before the meeting is to be held; and
  - (c) shall permit any person who attends the public meeting the opportunity to make representations in respect of the proposed by-law.



Council not obligated	(7) The council is not required to pass the by-law even if the tourism criteria are met.
Commencement of by-law	(8) Subject to section 4.3, a by-law under this section comes into force on the thirty-first day after it is passed by the council.
Procedures	<p>(9) Subject to the regulations made under this section, the council may,</p> <ul style="list-style-type: none"> <li>(a) establish procedures and fees for the processing of applications;</li> <li>(b) combine two or more applications;</li> <li>(c) hold one public meeting with respect to two or more applications;</li> <li>(d) limit the number of applications that will be considered in any year.</li> </ul>
Regulations	<p>(10) The Lieutenant Governor in Council may make regulations,</p> <ul style="list-style-type: none"> <li>(a) prescribing tourism criteria for the purposes of this section;</li> <li>(b) governing the procedures and fees for processing applications, the combining of applications and public meetings and limitations on the number of public meetings held by a council;</li> <li>(c) setting out the contents of the application;</li> <li>(d) requiring that a by-law that applies to a retail business establishment within such class of retail business establishments as may be set out in the regulation may be considered only on the application of the person carrying on the business.</li> </ul>
Idem	(11) A regulation under clause (10) (a) or (d) may classify retail business establishments and may prescribe different tourism criteria for the different classes of retail business establishments.
Unorganized territory	<b>4.1</b> The Lieutenant Governor in Council may by regulation permit retail business establishments in territory without municipal organization to be open on holidays.
Contents of by-laws and regulations	<p><b>4.2</b> A by-law under section 4 or a regulation under section 4.1,</p> <ul style="list-style-type: none"> <li>(a) may apply to one or more retail business establishments or to one or more classes of retail business establishments;</li> <li>(b) may apply to all or any part or parts of the municipality in case of a by-law or to all or any part of a territory without municipal organization in the case of a regulation;</li> <li>(c) may limit the opening of retail business establishments on holidays to specific times or to a certain number of hours;</li> <li>(d) may permit the opening of retail business establishments on some holidays and not on others;</li> <li>(e) may restrict the opening of retail business establishments on holidays to specific periods of the year;</li> <li>(f) may classify retail business establishments.</li> </ul>
Appeal to O.M.B.	<b>4.3—(1)</b> Any person who objects to a by-law made by the council of a municipality under section 4 may appeal to the Ontario Municipal Board by filing a notice of appeal with the Board setting out the objection to the by-law and the reasons in support of the objection.

Time for appeal	(2) The notice of appeal must be filed with the Board not later than thirty days after the day the by-law is passed by the council.
Dismissal without hearing	(3) The Board may, if it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing, but before doing so shall notify the appellant and afford the appellant an opportunity to make representations as to the merits of the appeal.
Powers of O.M.B.	(4) The Board may, (a) dismiss the appeal; (b) dismiss the appeal on the condition that the council amend the by-law in a manner specified by the Board; or (c) quash the by-law.
Commencement of by-law	(5) If one or more appeals are taken under this section, the by-law shall not come into force until, (a) the day all appeals have been dismissed under subsection (3) or clause (4) (a); or (b) the day the by-law is amended in the manner specified by the Board under clause (4) (b).
Correction of errors	(6) The Board may, without a hearing, correct an error in an order or decision under this section if the error arises from an accidental slip or omission.
<i>Ontario Municipal Board Act, ss. 42, 94</i>	(7) Sections 42 and 94 of the <i>Ontario Municipal Board Act</i> do not apply to an appeal under this section.
Time for decision	(8) The Board shall use its best efforts to decide appeals under this section within the period of time prescribed under subsection (9).
Regulations	(9) The Lieutenant Governor in Council may make regulations prescribing a period of time for the purpose of subsection (8).

**(2) The Act is amended by adding the following section:**

**(2) La Loi est modifiée par adjonction de l'article suivant :**

Sundays in December

**4.4** Despite any other provision of this or any other Act or the by-laws or regulations under this or any other Act, a retail business may be carried on in a retail business establishment on the Sundays in December preceding Christmas Day.

**(3) Subsection 6 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is repealed and the following substituted:**

**(3) Le paragraphe 6 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

Transitional

(2) The following transitional rules apply to the by-laws of municipalities that were in force under this or any other Act immediately before the coming into force of subsection 1 (3) of the *Retail Business Establishments Statute Law Amendment Act, 1991* and that relate to the opening or closing of a retail business establishment on holidays:

1. By-laws in force on the 3rd day of June, 1991 continue in force until the first anniversary of that subsection coming into force or until the by-law is repealed, whichever is first.
2. By-laws that come into force on or after the 4th day of June, 1991 are repealed on the day on which that subsection comes into force.

**(4) Section 7 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 3, sec-**

**(4) L'article 7 de la Loi, tel qu'il est adopté de nouveau par l'article 6 du chapitre 3 des**

tion 6, is amended by adding the following subsection:

Minimum  
penalty

(3.1) The minimum fine for an offence under this Act, other than for a contravention of subsection 2 (2), is \$500 for a first offence, \$2,000 for a second offence and \$5,000 for a third or subsequent offence.

(5) Section 8 of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is amended by adding the following subsection:

Idem

(1a) In addition to its powers under subsection (1), the Ontario Court (General Division), on the application of any interested person, may order that a retail business establishment close on a holiday to ensure compliance with this Act or a by-law or regulation under this Act.

(6) Subsection 8 (2) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 3, section 6, is repealed and the following substituted:

Idem

(2) An order under subsection (1) or (1a) is in addition to any penalty that may be imposed and may be made whether or not a proceeding is commenced under the *Provincial Offences Act* for a contravention of section 2 or of a by-law or regulation under this Act.

## PART II

### EMPLOYMENT STANDARDS ACT

2.—(1) Part XI-B of the *Employment Standards Act*, as enacted by the Statutes of Ontario, 1988, chapter 7, section 1 and amended by 1989, chapter 4, section 2, is repealed and the following substituted:

Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

(5) L'article 8 de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

(6) Le paragraphe 8 (2) de la Loi, tel qu'il est adopté par l'article 6 du chapitre 3 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

## PARTIE II

### LOI SUR LES NORMES D'EMPLOI

2 (1) La partie XI-B de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), telle qu'elle est adoptée par l'article 1 du chapitre 7 des Lois de l'Ontario de 1988 et modifiée par l'article 2 du chapitre 4 des Lois de l'Ontario de 1989, est abrogée et remplacée par ce qui suit :

## PART XI-B

### RETAIL BUSINESS ESTABLISHMENTS

Application

**39e.**—(1) This Part applies with respect to retail business establishments as defined in subsection 1 (1) of the *Retail Business Holidays Act* to the employees and employers in those establishments and to persons acting on behalf of those employers.

Non-applica-  
tion

(2) This Part does not apply with respect to retail business establishments in which the primary retail business is one,

- (a) that sells prepared meals;
- (b) that rents living accommodations;
- (c) that is open to the public for educational, recreational or amusement purposes; or
- (d) that sells goods or services incidental to a business described in clause (a), (b) or (c) and that is located in the same premises as the business.

Period of  
rest

**39ea.** In every seven-day period, an employer shall allow each employee at least thirty-six consecutive hours of rest.

Right to  
refuse work

**39eb.**—(1) An employee may refuse an assignment of work on a Sunday or other holiday as defined in subsection 1 (1) of the *Retail Business Holidays Act*.



Notice of  
refusal

(2) An employee who accepts an assignment of work on a Sunday or other holiday may then refuse the assignment only upon giving the employer notice at least forty-eight hours before the first hour of the work on the Sunday or holiday.

Prohibition

**39ec.** No employer or person acting on behalf of an employer shall dismiss, threaten to dismiss, discipline, suspend, lay off, intimidate, coerce or impose a penalty on an employee,

- (a) because the employee has refused, or attempted to refuse, an assignment of work on a Sunday or other holiday if the employee is permitted to do so under section 39eb;
- (b) because the employee seeks to enforce his or her rights under this Part; or
- (c) because the employee,
  - (i) makes representations in respect of a proposed by-law under section 4 of the *Retail Business Holidays Act* at a public meeting under that section,
  - (ii) commences or participates in an appeal to the Ontario Municipal Board of a by-law made under section 4 of the *Retail Business Holidays Act*, or
  - (iii) commences or participates in a challenge in any court to a by-law made under section 4 of the *Retail Business Holidays Act*.

Order by  
E.S.O.

**39f.**—(1) If an employer fails to comply with section 39ea or contravenes section 39ec, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with the section and may make an order to reinstate or recall the employee with or without compensation or to compensate the employee in lieu of reinstatement or recall for loss of earnings or other employment benefits.

Compensa-  
tion

(2) When ordering the employer to compensate the employee, the employment standards officer shall determine the amount of the compensation.

(2) Clause 57 (1) (ea) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 7, section 4, is repealed and the following substituted:

(2) L'alinéa 57 (1) (ea) de la Loi, tel qu'il est adopté par l'article 4 du chapitre 7 des Lois de l'Ontario de 1988, est abrogé et remplacé par ce qui suit :

(ea) has sought to enforce his or her rights under section 39ea;

(eb) has exercised a right to refuse work under section 39eb.

### PART III

#### COMMENCEMENT AND SHORT TITLE

Commence-  
ment

**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**4.** The short title of this Act is the *Retail Business Establishments Statute Law Amendment Act, 1991*.

### PARTIE III

#### ENTRÉE EN VIGUEUR ET TITRE ABRÉGÉ

**3** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant des lois en ce qui concerne les établissements de commerce de détail*.

Titre abrégé





Bill 116

Private Member's Bill

Projet de loi 116

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 116

**An Act to amend  
the Employment Standards Act  
with respect to Notice of Termination**

**Mr. Dadamo**

1st Reading     June 4th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 116

**Loi portant modification de la Loi sur  
les normes d'emploi en ce qui a trait au  
préavis de licenciement**

**M. Dadamo**



1<sup>re</sup> lecture     4 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The Bill would increase the amount of notice of termination required under the *Employment Standards Act* in cases involving ten or more terminations caused by a permanent discontinuance of all or part of an employer's business at an establishment. Twenty-six weeks notice would be required if there were fewer than 200 terminations, and fifty-two weeks notice would be required if there were 200 or more. The only exceptions to entitlement to notice would be if the employee had been employed for less than three months or if he or she had been guilty of wilful misconduct, disobedience or wilful neglect of duty.

The employer would also have to provide certain information to the Minister concerning such matters as the economic circumstances surrounding the terminations.

The Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi augmente le délai de préavis de licenciement exigé aux termes de la *Loi sur les normes d'emploi* dans les cas où l'interruption permanente de l'ensemble ou d'une partie des activités de l'employeur à un établissement entraîne dix licenciements ou plus. Vingt-six semaines de préavis sont exigées s'il y a moins de 200 licenciements, et cinquante-deux semaines de préavis sont exigées s'il y a 200 licenciements ou plus. Il n'est fait exception à ce droit à un préavis que si l'employé a été employé pendant moins de trois mois ou s'il s'est rendu coupable d'inconduite délibérée, d'indiscipline ou de négligence volontaire dans l'exercice de ses devoirs.

L'employeur doit également fournir au ministre certains renseignements sur des questions telles que la situation économique entourant les licenciements.

Le projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

**An Act to amend  
the Employment Standards Act  
with respect to Notice of Termination**

**Loi portant modification de la Loi sur  
les normes d'emploi en ce qui a trait  
au préavis de licenciement**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Section 40 of the *Employment Standards Act*, as amended by the Statutes of Ontario, 1981, chapter 22, section 1 and 1987, chapter 30, section 4, is further amended by adding the following subsections:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 (1)** L'article 40 de la loi intitulée *Employment Standards Act* («*Loi sur les normes d'emploi*»), tel qu'il est modifié par l'article 1 du chapitre 22 des Lois de l'Ontario de 1981 et par l'article 4 du chapitre 30 des Lois de l'Ontario de 1987, est modifié de nouveau par adjonction du paragraphe suivant :

Permanent  
discontinu-  
ance

(2h) Notwithstanding subsections (1) and (2), the notice required to terminate the employment of ten or more employees if the terminations are caused by the permanent discontinuance of all or part of the business of the employer at an establishment is,

- (a) twenty-six weeks notice if the employment of less than 200 employees is to be terminated; and
- (b) fifty-two weeks notice if the employment of 200 or more employees is to be terminated.

Idem

- (2i) An employer to whom subsection (2h) applies shall,
  - (a) complete Form 1 of Ontario Regulation 444/87 and provide it to the Minister by delivering it to the Office of the Director of the Employment Adjustment Branch; and
  - (b) keep a copy of Part A of the completed Form 1 posted throughout the statutory notice period in one or more conspicuous places in the employer's establishment where it is most likely to come to the attention of the employees whose employment is to be terminated.

Idem

(2j) Subsections (2d) to (2g) apply, with necessary modifications, in respect of the form referred to in subsection (2i).

Idem

(3a) An employee is not entitled to notice under subsection (2h) if he or she has been employed by the employer for less than three months at the time of termination or if he or she has been guilty of wilful misconduct, disobedience or wilful neglect of duty that has not been condoned by the employer.

Regulation

(3b) No regulation made under this Act that provides that this section does not apply to an employee or that prescribes a period of notice of termination other than that specified in subsection (2h) applies to an employee referred to in that subsection.

**(2)** Subsection 40 (6) of the Act, as amended by the Statutes of Ontario, 1981, chapter 22, section 1, is further amended by

**(2)** Le paragraphe 40 (6) de la Loi, tel qu'il est modifié par l'article 1 du chapitre 22 des Lois de l'Ontario de 1981, est modifié de nou-



striking out “or (2)” in the first line and substituting “(2) or (2h)”.

(3) Clause 40 (7) (a) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 22, section 1, is amended by striking out “or (2)” in the fifth line and substituting “(2) or (2h)”.

(4) Clause 40 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 22, section 1, is amended by striking out “or (2)” in the second line and substituting “(2) or (2h)”.

(5) Clause 40 (7) (c) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 22, section 1, is amended by striking out “or (2)” in the second line and substituting “(2) or (2h)”.

**3.** This Act comes into force on the day it receives Royal Assent.

**4.** The short title of this Act is the *Employment Standards Amendment Act (Notice of Termination)*, 1991.

veau par substitution, à «or (2)» à la première ligne, de «(2) or (2h)».

(3) L'alinéa 40 (7) (a) de la Loi, tel qu'il est adopté de nouveau par l'article 1 du chapitre 22 des Lois de l'Ontario de 1981, est modifié par substitution, à «or (2)» à la cinquième ligne, de «(2) or (2h)».

(4) L'alinéa 40 (7) (b) de la Loi, tel qu'il est adopté de nouveau par l'article 1 du chapitre 22 des Lois de l'Ontario de 1981, est modifié par substitution, à «or (2)» à la deuxième ligne, de «(2) or (2h)».

(5) L'alinéa 40 (7) (c) de la Loi, tel qu'il est adopté de nouveau par l'article 1 du chapitre 22 des Lois de l'Ontario de 1981, est modifié par substitution, à «or (2)» à la deuxième ligne, de «(2) or (2h)».

**3** La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les normes d'emploi en ce qui a trait au préavis de licenciement*.

Commence-  
ment

Short title

Entrée en  
vigueur

Titre abrégé

Bill 117

Government Bill

Projet de loi 117

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 117

**An Act to amend the Courts of Justice  
Act, 1984 respecting Provincial Judges'  
Compensation**

**The Hon. F. Lankin**

Chair of the Management Board of Cabinet

## Projet de loi 117

**Loi portant modification de la Loi de  
1984 sur les tribunaux judiciaires en ce  
qui concerne la rétribution des juges  
provinciaux**

**L'honorable F. Lankin**

Présidente du Conseil de gestion du gouvernement

1st Reading      June 5th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture      5 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTES

The purpose of the Bill is to implement recommendations of the Henderson Report concerning remuneration, benefits and allowances of provincial judges.

**SECTION 1.** This section provides that provincial judges may not devote any of their time to the practice of law.

**SECTION 2.** This section continues the salaries for provincial judges for the fiscal year ending March 31, 1991. It provides for annual increments based on the lesser of the increase in the Industrial Aggregate for Canada and 7 per cent.

**SECTION 3.** This section provides that the Provincial Judges Remuneration Commission will be appointed every three years to inquire into the adequacy of salary levels, allowances and benefits of provincial judges. It is also given discretion to conduct further inquiries into salary levels, allowances and benefits of provincial judges if requested to do so by a provincial judges' association or the Government of Ontario. In both cases it is to present recommendations and a report to the Chair of the Management Board of Cabinet.

**SECTION 4.** This section provides that the Provincial Judges Pension Board (originally established by regulation and now known as the Provincial Judges Benefits Board) is responsible for administering pension benefits and survivor allowances for provincial judges and masters.

**SECTION 5.—Subsection 1.** Ancillary to amendments in section 2.

**Subsections 2 and 3.** These subsections give the Lieutenant Governor in Council authority to make regulations concerning the Pension Board's administration of pension benefits and survivor allowances. A regulation may authorize the Board to transfer funds respecting provincial judges' and masters' pension benefits from the Consolidated Revenue Fund to a separate fund to be administered by the Board, to contract out the administration of any transferred fund to an administrator of another pension fund and to deduct the costs of administering the fund from the fund.

The Bill amends only the English version of the Act. The Legislature has not yet adopted an official French version of this Act.

## NOTES EXPLICATIVES

Le projet de loi a pour objet de mettre en oeuvre les recommandations du rapport Henderson au sujet de la rémunération, des avantages sociaux et des allocations des juges provinciaux.

**ARTICLE 1** Cet article prévoit que les juges provinciaux ne peuvent pas consacrer de temps à l'exercice du droit.

**ARTICLE 2** Cet article maintient le traitement des juges provinciaux pour l'exercice se terminant le 31 mars 1991. Il prévoit des augmentations annuelles basées sur l'augmentation de l'indice pour l'ensemble des activités économiques pour le Canada jusqu'à concurrence de 7 pour cent.

**ARTICLE 3** Cet article prévoit que les membres de la Commission de rémunération des juges provinciaux sont nommés tous les trois ans afin de faire enquête sur les niveaux des traitements, des allocations et des avantages sociaux des juges provinciaux. Elle dispose également du pouvoir discrétionnaire de mener d'autres enquêtes à ce sujet à la demande d'une association de juges provinciaux ou du gouvernement de l'Ontario. Dans un cas comme dans l'autre, elle doit présenter ses recommandations et un rapport au président du Conseil de gestion du gouvernement.

**ARTICLE 4** Cet article prévoit que la commission portant le nom de *Provincial Judges Pension Board* en anglais (qui a été créée par voie de règlement et qui est présentement connue sous le nom de Commission de retraite des juges provinciaux en français) est chargée de l'administration des prestations de rente et des allocations de survivant des juges provinciaux et des protonotaires.

**ARTICLE 5—paragraphe 1** Connexe à la modification faisant l'objet de l'article 2.

**Paragraphe 2 et 3** Ces paragraphes donnent au lieutenant-gouverneur en conseil le pouvoir de prendre des règlements concernant l'administration des prestations de rente et des allocations de survivant par la Commission. Un règlement peut permettre à la Commission de transférer des fonds relatifs aux prestations de rente des juges provinciaux et des protonotaires du Trésor à un fonds distinct à administrer par elle, de confier par sous-traitance à l'administrateur d'une autre caisse de retraite l'administration d'un fonds qui a été transféré et de déduire du fonds les frais d'administration de ce fonds.

Le projet de loi ne modifie que la version anglaise de la Loi, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

**An Act to amend the Courts of Justice Act, 1984 respecting Provincial Judges' Compensation**

**Loi portant modification de la Loi de 1984 sur les tribunaux judiciaires en ce qui concerne la rétribution des juges provinciaux**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 42 (1) of the *Courts of Justice Act, 1984*, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding at the end "and shall not devote any of his or her time to the practice of law".

**2.** The Act is amended by adding the following section:

Salaries of  
full time  
provincial  
judges

**42a.**—(1) For the period beginning on the 1st day of September, 1990 up to and including the 31st day of March, 1991, the annual salaries of full-time provincial judges shall continue to be as follows:

- |   |           |
|---|-----------|
| 1. Chief Judge of the Provincial Division           | \$126,240 |
| 2. Regional senior judge of the Provincial Division | 120,980   |
| 3. Co-ordinator of Justices of the Peace            | 120,980   |
| 4. Any other provincial judge                       | 110,460   |

Annual  
adjustment

(2) Effective on the 1st day of April in every year after 1990, the annual salaries for full-time provincial judges shall be adjusted as follows:

1. Determine the Industrial Aggregate for the twelve-month period that most recently precedes the 1st day of April of the year for which the salaries are to be calculated.
2. Determine the Industrial Aggregate for the twelve-month period immediately preceding the period referred to in paragraph 1.
3. Calculate the percentage that the Industrial Aggregate under paragraph 1 is of the Industrial Aggregate under paragraph 2.
4. If the percentage calculated under paragraph 3 exceeds 100 per cent, the salaries are to be calculated by multiplying the appropriate salaries for the year preceding the year for which the salaries are to be calculated by the lesser of that percentage and 107 per cent.
5. If the percentage calculated under paragraph 3 does not exceed 100 per cent, the salaries shall remain unchanged.

Idem

(3) In subsection (2), "Industrial Aggregate" for a twelve-month period is the average for that twelve-month period of the weekly wages and salaries of the Industrial Aggregate in Canada

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** Le paragraphe 42 (1) de la loi intitulée *Courts of Justice Act, 1984* («*Loi de 1984 sur les tribunaux judiciaires*»), tel qu'il est adopté de nouveau par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, est modifié par adjonction de «and shall not devote any of his or her time to the practice of law».

**2** La Loi est modifiée par adjonction de l'article suivant :



as published by Statistics Canada under the authority of the *Statistics Act* (Canada).

Consolidated  
Revenue  
Fund

(4) The salaries, allowances and benefits of provincial judges shall be paid out of the Consolidated Revenue Fund.

**3. Subsections 50 (3), (4) and (5) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 2, are repealed and the following substituted:**

**3 Les paragraphes 50 (3), (4) et (5) de la Loi, tels qu'ils sont adoptés par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, sont abrogés et remplacés par ce qui suit :**

Terms of  
members

(3) Subject to subsection (4), the members of the Commission shall serve for a term of three years beginning on the 1st day of July in the year their inquiry under subsection (10) is to be conducted.

Idem

(4) The term of office of the persons who are members of the Commission on the 1st day of May, 1991 shall expire on the 30th day of June, 1993.

Reappoint-  
ment

(5) Members of the Commission may be reappointed when their term of office expires.

Vacancies

(6) If a vacancy occurs on the Commission, a replacement may be appointed for the unexpired part of the term.

Judges and  
public  
servants not  
to be  
members

(7) Judges and public servants, as defined in the *Public Service Act*, shall not be members of the Commission.

Remunera-  
tion and  
expenses

(8) The members of the Commission shall be paid the remuneration fixed by the Management Board of Cabinet and, subject to Management Board's approval, the reasonable expenses actually incurred in carrying out their duties.

Services

(9) The Commission may retain support services and professional services, including the services of counsel, as it considers necessary, subject to the approval of the Management Board.

Mandatory  
inquiry at  
three-year  
intervals

(10) In 1991, in 1993 and in every third year after 1993, the Commission shall conduct an inquiry into the adequacy of salary levels, allowances and benefits of provincial judges and shall, on or before the 31st day of December in the year the inquiry is conducted, present recommendations and a report to the Chair of the Management Board of Cabinet.

Idem

(11) The Commission whose term begins on the 1st day of July, 1993 and all subsequent Commissions shall begin their inquiry under subsection (10) immediately after their term begins.

Additional  
inquiries in  
Commis-  
sion's discre-  
tion

(12) In addition to the inquiry referred to in subsection (10), the Commission may, in its discretion, conduct any further inquiries into the salary levels, allowances and benefits of provincial judges that are requested by a provincial judges' association or the Government of Ontario.

Idem

(13) If the Commission conducts a discretionary inquiry, it shall present its recommendations and a report to the Chair of the Management Board of Cabinet.

Tabling

(14) The Commission's recommendations and reports shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next session.

Manner of  
conducting  
inquiries

(15) In conducting its inquiries, the Commission shall consider written and oral submissions made by provincial judges' associations and by the Government of Ontario.

Idem

(16) The Commission may hold hearings, and may consider written and oral submissions from other interested persons and groups.

Submissions  
by judges'  
associations  
and Ontario  
Government

(17) The following rules govern the presentation to the Commission of submissions by provincial judges' associations and by the Government of Ontario, and their consideration by the Commission:

1. Each judges' association is entitled to receive advance disclosure of written submissions by the Government of Ontario and is entitled to make a written submission in reply.
2. The Government of Ontario is likewise entitled to receive advance disclosure of written submissions by provincial judges' associations and is entitled to make a written submission in reply.
3. When a representative of the Government of Ontario or of a judges' association makes an oral submission, the Commission may exclude from the hearing all persons except representatives of the Government of Ontario and of the judges' associations.
4. The representatives of the Government of Ontario and of the judges' associations are entitled to reply to each other's oral submissions.
5. If people have been excluded from the hearing under paragraph 3, the submissions of the Government of Ontario and of the judges' associations shall not be made public except to the extent that they are mentioned in the Commission's report.

Submissions  
by others

(18) The Government of Ontario and the provincial judges' associations are entitled to be present when other persons make oral submissions to the Commission and are entitled to receive copies of other persons' written submissions.

Annual  
report

(19) The Commission shall make an annual report of its activities to the Chair of the Management Board.

**4. The Act is further amended by adding the following sections:**

**4 La Loi est modifiée en outre par adjonction des articles suivants :**

Pension  
Board

**50a.**—(1) The board known as the Provincial Judges Benefits Board is continued under the name Provincial Judges Pension Board in English and Commission de retraite des juges provinciaux in French.

Appoint-  
ments

(2) The Board shall be composed of three members who shall be appointed by the Lieutenant Governor in Council.

Chair

(3) The Lieutenant Governor in Council shall designate a chair from among the members of the Board.

Term

(4) Each member of the Board shall hold office for three years and until a successor is appointed.

Reappoint-  
ment

(5) Members of the Board may be reappointed when their terms of office expire.

Quorum

(6) Two members of the Board constitute a quorum and are sufficient for the exercise of all the authority of the Board.

Duty of  
Pension  
Board

**50b.** The Board shall administer the pension benefits and survivor allowances for provincial judges and masters.

**5.—(1) Clause 52 (1) (b) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted:**

**5 (1) L'alinéa 52 (1) (b) de la Loi, tel qu'il est adopté par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :**

- (b) fixing the allowances payable to provincial judges and masters.

(2) Subsection 52 (1) of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding the following clauses:

- (ca) prescribing the powers and duties to be exercised and performed by the Provincial Judges Pension Board;
- (cb) fixing the rate of remuneration of part-time provincial judges and masters.

(3) Subsection 52 (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is repealed and the following substituted:

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits, may fix the amount of the contributions and may rely on the report of an actuary in determining how to fix those amounts.

(4) Section 52 of the Act, as re-enacted by the Statutes of Ontario, 1989, chapter 55, section 2, is amended by adding the following subsection:

Powers of Board

(4a) A regulation made under clause (1)(ca) may,

- (a) authorize the transfer of the custody, control and administration of any specified fund respecting provincial judges' and masters' pension benefits from the Consolidated Revenue Fund to a fund to be administered by the Board;
- (b) authorize the transfer under clause (a) to be made by cash, by the issue by Ontario of debentures to the authorized body or by both and attach conditions, including specifying the rate of interest to be paid, to the issue of the debentures;
- (c) authorize the Board to contract with an administrator of a pension plan, other than the Canada Pension Plan, to which the Crown in right of Ontario contributes for the administrator to provide administrative and management services respecting a transferred fund;
- (d) authorize the Board to deduct from a transferred fund the administrative costs of operating it or any costs incurred under a contract under clause (c); and
- (e) prescribe rules for the investment and management of a transferred fund.

(2) Le paragraphe 52 (1) de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, est modifié par adjonction des alinéas suivants :

(3) Le paragraphe 52 (3) de la Loi, tel qu'il est adopté par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(4) L'article 52 de la Loi, tel qu'il est adopté de nouveau par l'article 2 du chapitre 55 des Lois de l'Ontario de 1989, est modifié par adjonction du paragraphe suivant :

Commencement

6. This Act comes into force on the day it receives Royal Assent.

6 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

Short title

7. The short title of this Act is the *Courts of Justice Amendment Act (Provincial Judges' Compensation), 1991*.

7 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur les tribunaux judiciaires (rétribution des juges provinciaux)*.

Titre abrégé







1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

# Bill 118

**An Act to amend  
the Power Corporation Act**

**The Hon. J. Carter**  
Minister of Energy

# Projet de loi 118

**Loi modifiant la Loi sur la Société de  
l'électricité**

**L'honorable J. Carter**  
Ministre de l'Énergie



1st Reading      June 5th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture      5 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

## EXPLANATORY NOTE

The Bill would make the Deputy Minister of Energy a non-voting member of the Board of Directors of the Power Corporation and would increase the membership of the Board from seventeen to twenty-two members. The chairperson would be made the chief executive officer of the Corporation, effective the 5th day of June, 1991. Any actions taken by any other person purporting to act as the chief executive officer on or after that date and before the Bill received Royal Assent would not bind the Corporation. The chairperson's remuneration and expenses would be determined by the Board.

The Minister of Energy would be authorized to issue policy directives approved by the Lieutenant Governor in Council that would be binding on the Corporation. A proportion of the cost of complying with policy directives would be made a part of the price that a municipal corporation must pay to the Power Corporation to be supplied with power.

The Bill would also include among the purposes to which the Corporation's income is to be applied purposes that are authorized or required by the regulations made under the Act. The description of the content of energy conservation programs set out in the Act would be broadened to make it clear that the Corporation's participation was not restricted to means of conservation involving the use of electrical energy. Municipal corporations and commissions may treat the cost of an energy conservation program as a current operating expense or as a capital expenditure in their discretion.

The Bill amends only the English version of the *Power Corporation Act*. The Legislature has not yet adopted an official French version of this Act.

## NOTE EXPLICATIVE

Le projet de loi fait du sous-ministre de l'Énergie un membre sans droit de vote du conseil d'administration de la Société de l'électricité et porte de dix-sept à vingt-deux le nombre de membres du conseil. Le président du conseil d'administration devient chef de la direction de la Société à partir du 5 juin 1991. Tous les actes posés à partir de cette date et avant que le projet de loi reçoive la sanction royale par quiconque prétend agir à titre de chef de la direction ne lient pas la Société. Le conseil d'administration fixe la rémunération et les indemnités de son président.

Le ministre de l'Énergie est autorisé à émettre les directives en matière de politique qui sont approuvées par le lieutenant-gouverneur en conseil, et celles-ci lient la Société. Une fraction du coût relié à l'observation de ces directives est intégrée au prix qu'une municipalité doit payer à la Société de l'électricité pour être approvisionnée en électricité.

Le projet de loi ajoute aux fins auxquelles les revenus de la Société peuvent être affectés les fins autorisées ou exigées par les règlements pris en application de la Loi. La description du contenu des programmes de conservation de l'énergie prévue par la Loi est élargie afin d'énoncer clairement que la participation de la Société n'est pas limitée aux moyens de conservation faisant appel à l'énergie électrique. Les municipalités et les commissions municipales peuvent, à leur discrétion, traiter le coût des programmes de conservation de l'énergie comme une dépense courante d'exploitation ou comme une dépense d'immobilisation.

Le projet de loi ne modifie que la version anglaise de la *Loi sur la Société de l'électricité*, la Législature n'ayant pas encore adopté de version française officielle de cette loi.

## An Act to amend the Power Corporation Act

## Loi modifiant la Loi sur la Société de l'électricité

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 3 (1) of the *Power Corporation Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 53, section 2, is repealed and the following substituted:

Board

(1) There shall be a board of directors of the Corporation consisting of a chairperson, a vice-chairperson, a president, the Deputy Minister of Energy and not more than eighteen other directors.

Deputy  
Minister

(1a) The Deputy Minister shall not vote at any meeting of the Board.

(2) Subsection 3 (2a) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 53, section 2, is repealed.

(3) Subsection 3 (5a) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 53, section 2, is repealed and the following substituted:

Chief execu-  
tive officer

(5a) The chairperson is the chief executive officer of the Corporation.

(4) Subsection 3 (6) of the Act, as amended by the Statutes of Ontario, 1989, chapter 53, section 36, is repealed and the following substituted:

Remunera-  
tion

(6) The directors appointed by the Lieutenant Governor in Council, other than the chairperson, shall be paid such remuneration and expenses by the Corporation as may be determined from time to time by the Lieutenant Governor in Council, and the remuneration and expenses shall be part of the administration expense of the Corporation.

Idem

(6a) The chairperson shall be paid such remuneration and expenses by the Corporation as may be determined from time to time by the Board, and the remuneration and expenses shall be part of the administration expense of the Corporation.

**2.** Section 9a of the Act, as enacted by the Statutes of Ontario, 1989, chapter 53, section 8, is repealed and the following substituted:

Policy direc-  
tives

**9a.—(1)** The Minister may issue policy directives that have been approved by the Lieutenant Governor in Council.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1** (1) Le paragraphe 3 (1) de la loi intitulée *Power Corporation Act* («*Loi sur la Société de l'électricité*»), tel qu'il est adopté de nouveau par l'article 2 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(2) Le paragraphe 3 (2a) de la Loi, tel qu'il est adopté par l'article 2 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé.

(3) Le paragraphe 3 (5a) de la Loi, tel qu'il est adopté par l'article 2 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(4) Le paragraphe 3 (6) de la Loi, tel qu'il est modifié par l'article 36 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

(6) Les directeurs nommés par le Lieutenant Gouverneur en Conseil, autres que le président, recevront de la Corporation une telle rémunération et des dépenses que le Lieutenant Gouverneur en Conseil déterminera de temps en temps, et la rémunération et les dépenses feront partie des dépenses d'administration de la Corporation.

(6a) Le président recevra de la Corporation une telle rémunération et des dépenses que le Conseil déterminera de temps en temps, et la rémunération et les dépenses feront partie des dépenses d'administration de la Corporation.

**2** L'article 9a de la Loi, tel qu'il est adopté par l'article 8 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé et remplacé par ce qui suit :

**9a.—(1)** Le Ministre peut émettre des directives de politique qui aient été approuvées par le Lieutenant Gouverneur en Conseil.



Consultation	(2) Before issuing a policy directive, the Minister shall consult the Board with respect to the content and effect of the directive on the Corporation.
Directors	(3) The directors shall ensure that policy directives are implemented promptly and efficiently.
Liability	(4) A director is not accountable for any consequences arising from the implementation of a policy directive under subsection (3) if he or she acted honestly and in good faith in relation to its implementation.
Idem	(5) The Board shall report to the Minister whenever it exercises a power or performs a duty to which a policy directive relates.

**3.** Clause 11 (g) of the Act is amended by striking out "by" in the second line and substituting "under".

**4.** Paragraphs 1, 2 and 3 of subsection 56a (3) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 16, section 3, are repealed and the following substituted:

1. The safe use of energy.
2. The improvement of an energy system in a building.
3. The conversion of a space heating system to a system based on the form of energy that would result in the greatest energy conservation in the circumstances.

**5.** Subsection 56b (3) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 16, section 3 and amended by 1989, chapter 53, section 25, is repealed.

**6.** The Act is amended by adding the following section:

Policy directives

**56ba.**—(1) The purposes and business of the Corporation include the objectives set out in any policy directive issued under subsection 9a (1).

Best interests

(2) Compliance with a policy directive shall be considered to be in the best interests of the Corporation.

Power

(3) The Corporation may do such things as in its opinion are necessary, usual or incidental to the furtherance of the objectives set out in a policy directive.

**7.** Section 75 of the Act, as amended by the Statutes of Ontario, 1981, chapter 16, section 7 and 1981, chapter 41, section 1, is further amended by adding the following clause:

- (ac) the cost of complying with a policy directive issued under subsection 9a (1).

**8.** Section 95a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 16, section 8, is repealed and the following substituted:

Conservation program

**95a.** The cost of an energy conservation program to a municipal corporation or commission may be treated by it in its discretion as a current operating expense or as a capital expenditure.

**3** L'alinéa 11 (g) de la Loi est modifié par substitution, à «by» à la deuxième ligne, de «under».

**4** Les dispositions 1, 2 et 3 du paragraphe 56a (3) de la Loi, telles qu'elles sont adoptées par l'article 3 du chapitre 16 des Lois de l'Ontario de 1981, sont abrogées et remplacées par ce qui suit :

**5** Le paragraphe 56b (3) de la Loi, tel qu'il est adopté par l'article 3 du chapitre 16 des Lois de l'Ontario de 1981 et modifié par l'article 25 du chapitre 53 des Lois de l'Ontario de 1989, est abrogé.

**6** La Loi est modifiée par adjonction de l'article suivant :

**7** L'article 75 de la Loi, tel qu'il est modifié par l'article 7 du chapitre 16 des Lois de l'Ontario de 1981 et par l'article 1 du chapitre 41 des Lois de l'Ontario de 1981, est modifié de nouveau par adjonction de l'alinéa suivant :

**8** L'article 95a de la Loi, tel qu'il est adopté par l'article 8 du chapitre 16 des Lois de l'Ontario de 1981, est abrogé et remplacé par ce qui suit :

## Transition

**9.** Any action taken on or after the 5th day of June, 1991 and before the coming into force of this Act by any person purporting to act as the Corporation's chief executive officer who was not the Corporation's chairperson when the action was taken shall not bind the Corporation.

**9** Les actes posés à partir du 5 juin 1991 et avant l'entrée en vigueur de la présente loi par quiconque prétendait agir à titre de chef de la direction de la Société et n'était pas président du conseil d'administration quand les actes ont été posés ne lient pas la Société.

Disposition  
transitoire

Commence-  
ment

**10.**—(1) This Act, except subsections 1 (2), (3) and (4), comes into force on the day it receives Royal Assent.

**10** (1) La présente loi, sauf les paragraphes 1 (2), (3) et (4), entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en  
vigueur

## Idem

(2) Subsections 1 (2), (3) and (4) shall be deemed to have come into force on the 5th day of June, 1991.

(2) Les paragraphes 1 (2), (3) et (4) sont réputés être entrés en vigueur le 5 juin 1991.

Idem

## Short title

**11.** The short title of this Act is the *Power Corporation Amendment Act, 1991*.

**11** Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la Société de l'électricité*.

Titre abrégé









Bill 119

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Bill 119**

(Chapter 7  
*Statutes of Ontario, 1991*)

**An Act to authorize the payment of  
certain amounts for the Public Service  
for the fiscal year ending on the 31st day  
of March, 1991**

**The Hon. F. Laughren**

Treasurer of Ontario and Minister of Economics

1st Reading	June 5th, 1991
2nd Reading	June 5th, 1991
3rd Reading	June 5th, 1991
Royal Assent	June 13th, 1991

Projet de loi 119

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

**Projet de loi 119**

(Chapitre 7  
*Lois de l'Ontario de 1991*)

**Loi autorisant le paiement de certaines  
sommes destinées à la fonction publique  
pour l'exercice se terminant le 31 mars  
1991**

**L'honorable F. Laughren**

Trésorier de l'Ontario et ministre de l'Économie

1 <sup>re</sup> lecture	5 juin 1991
2 <sup>e</sup> lecture	5 juin 1991
3 <sup>e</sup> lecture	5 juin 1991
sanction royale	13 juin 1991





**An Act to authorize the payment of certain amounts for the Public Service for the fiscal year ending on the 31st day of March, 1991**

**Loi autorisant le paiement de certaines sommes destinées à la fonction publique pour l'exercice se terminant le 31 mars 1991**

Whereas messages from the Honourable Lincoln Alexander, Lieutenant Governor of the Province of Ontario, accompanied by estimates and supplementary estimates, indicate that the amounts mentioned in the Schedule are required to pay expenses of the public service of Ontario that are not otherwise provided for, for the fiscal year ending on the 31st day of March, 1991;

Attendu qu'il ressort des messages de l'honorable Lincoln Alexander, lieutenant-gouverneur de la province de l'Ontario, accompagnés du budget des dépenses et du budget des dépenses supplémentaire que les sommes indiquées à l'annexe sont nécessaires pour assumer les dépenses de la fonction publique de l'Ontario auxquelles il n'est pas autrement pourvu pendant l'exercice se terminant le 31 mars 1991;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

Supply  
granted for  
fiscal year  
1990-91

**1.—(1)** For the period from the 1st day of April, 1990 to the 31st day of March, 1991, amounts not exceeding a total of \$29,607,810,357 may be paid out of the Consolidated Revenue Fund, to be applied to the expenses of the public service, as set out in the Schedule, that are not otherwise provided for.

**1 (1)** Le gouvernement peut, pour la période allant du 1<sup>er</sup> avril 1990 au 31 mars 1991, prélever sur le Trésor des sommes ne dépassant pas au total 29 607 810 357 \$ et les affecter aux dépenses de la fonction publique, indiquées à l'annexe, auxquelles il n'est pas autrement pourvu.

Crédits accordés pour l'exercice 1990-1991

Votes and  
items

**(2)** The money shall be applied in accordance with the votes and items of the estimates and supplementary estimates.

**(2)** Cette somme est affectée conformément aux crédits alloués et aux postes du budget des dépenses et du budget des dépenses supplémentaire.

Crédits et postes

Exception

**(3)** Despite subsections (1) and (2), if powers and duties are transferred from one minister of the Crown to another during the fiscal year ending on the 31st day of March, 1991, the appropriate amounts in the votes and items of the estimates and supplementary estimates may be transferred accordingly, on the authority of a certificate of the Management Board of Cabinet.

**(3)** Malgré les paragraphes (1) et (2), si des attributions d'un ministre de la Couronne sont transmises à un autre ministre pendant l'exercice se terminant le 31 mars 1991, les sommes appropriées, figurant aux crédits alloués et aux postes du budget des dépenses et du budget des dépenses supplémentaire, peuvent être transférées en conséquence, moyennant l'autorisation, par délivrance d'un certificat, du Conseil de gestion du gouvernement.

Exception

Commence-  
ment

**2.** This Act shall be deemed to have come into force on the 31st day of March, 1991.

**2** La présente loi est réputée être entrée en vigueur le 31 mars 1991.

Entrée en vigueur

Short title

**3.** The short title of this Act is the *Supply Act, 1991*.

**3** Le titre abrégé de la présente loi est *Loi de crédits de 1991*.

Titre abrégé



## SCHEDULE

	1990-91 Estimates	Supplementary Estimates	Total
	\$	\$	\$
Agriculture and Food .....	263,129,850		263,129,850
Assembly, Office of the .....	77,310,200	9,107,800	86,418,000
Attorney General .....	402,874,000		402,874,000
Cabinet Office .....	4,171,000		4,171,000
Chief Election Officer, Office of the .....	478,400	116,200	594,600
Citizenship .....	38,711,500		38,711,500
Colleges and Universities .....	2,113,841,700		2,113,841,700
Community and Social Services .....	4,089,950,900		4,089,950,900
Consumer and Commercial Relations ...	117,008,200		117,008,200
Correctional Services .....	378,704,700		378,704,700
Culture and Communications .....	242,205,600		242,205,600
Disabled Persons, Office for .....	5,841,400		5,841,400
Education .....	3,714,893,743		3,714,893,743
Energy .....	37,303,300		37,303,300
Environment .....	475,682,200		475,682,200
Financial Institutions .....	42,526,300		42,526,300
Francophone Affairs, Office of .....	3,427,300		3,427,300
Government Services .....	522,544,200		522,544,200
Health .....	11,029,857,500		11,029,857,500
Housing .....	472,157,400		472,157,400
Industry, Trade and Technology .....	197,984,400		197,984,400
Intergovernmental Affairs .....	7,769,200		7,769,200
Labour .....	108,691,900		108,691,900
Lieutenant Governor, Office of the .....	469,200		469,200
Management Board .....	185,200,200		185,200,200
Municipal Affairs .....	1,005,212,300		1,005,212,300
Native Affairs, Office Responsible for ...	4,456,100		4,456,100
Natural Resources .....	472,171,600		472,171,600
Northern Development and Mines .....	218,168,900		218,168,900
Ombudsman Ontario .....	5,956,400	150,000	6,106,400
Premier, Office of the .....	1,772,200		1,772,200
Provincial Auditor, Office of the .....	5,676,000		5,676,000
Revenue .....	681,955,600		681,955,600
Senior Citizens Affairs, Office Responsible for	6,023,464		6,023,464
Skills Development .....	185,381,200		185,381,200
Solicitor General .....	408,948,500		408,948,500
Tourism and Recreation .....	156,678,100		156,678,100
Transportation .....	1,832,130,300		1,832,130,300
Treasury and Economics .....	66,083,600		66,083,600
Women's Issues, Office Responsible for ..	15,087,800		15,087,800
Total .....	29,598,436,357	9,374,000	29,607,810,357

## ANNEXE

	Budget des dépenses de 1990-1991	Budget des dépenses de supplémentaire	Total
	\$	\$	\$
Affaires autochtones, Office des .....	4 456 100		4 456 100
Affaires civiles .....	38 711 500		38 711 500
Affaires francophones, Office des .....	3 427 300		3 427 300
Affaires intergouvernementales .....	7 769 200		7 769 200
Affaires municipales .....	1 005 212 300		1 005 212 300
Agriculture et Alimentation .....	263 129 850		263 129 850
Assemblée législative, Bureau de l' .....	77 310 200	9 107 800	86 418 000
Collèges et Universités .....	2 113 841 700		2 113 841 700
Condition féminine, Office de la .....	15 087 800		15 087 800
Conseil de gestion du gouvernement .....	185 200 200		185 200 200
Conseil des ministres, Bureau du .....	4 171 000		4 171 000
Consommation et Commerce .....	117 008 200		117 008 200
Culture et Communications .....	242 205 600		242 205 600
Développement du Nord et des Mines .....	218 168 900		218 168 900
Directeur général des élections, Bureau du .....	478 400	116 200	594 600
Éducation .....	3 714 893 743		3 714 893 743
Énergie .....	37 303 300		37 303 300
Environnement .....	475 682 200		475 682 200
Formation professionnelle .....	185 381 200		185 381 200
Industrie, Commerce et Technologie .....	197 984 400		197 984 400
Institutions financières .....	42 526 300		42 526 300
Lieutenant-gouverneur, Bureau du .....	469 200		469 200
Logement .....	472 157 400		472 157 400
Ombudsman Ontario .....	5 956 400	150 000	6 106 400
Personnes âgées, Office des .....	6 023 464		6 023 464
Personnes handicapées, Office des .....	5 841 400		5 841 400
Premier ministre, Cabinet du .....	1 772 200		1 772 200
Procureur général .....	402 874 000		402 874 000
Revenu .....	681 955 600		681 955 600
Richesses naturelles .....	472 171 600		472 171 600
Santé .....	11 029 857 500		11 029 857 500
Services correctionnels .....	378 704 700		378 704 700
Services gouvernementaux .....	522 544 200		522 544 200
Services sociaux et communautaires .....	4 089 950 900		4 089 950 900
Solliciteur général .....	408 948 500		408 948 500
Tourisme et Loisirs .....	156 678 100		156 678 100
Transports .....	1 832 130 300		1 832 130 300
Travail .....	108 691 900		108 691 900
Trésor et Économie .....	66 083 600		66 083 600
Vérificateur provincial, Bureau du .....	5 676 000		5 676 000
Total .....	29 598 436 357	9 374 000	29 607 810 357









**Bill 120**

**Private Member's Bill**

**Projet de loi 120**

**de député**

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## **Bill 120**

**An Act to amend the Law related to the  
Freedom of Information and Protection  
of Privacy**

**Mr. McLean**

1st Reading      June 6th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## **Projet de loi 120**

**Loi portant modification des lois  
concernant l'accès à l'information et la  
protection de la vie privée**

**M. McLean**

1<sup>re</sup> lecture      6 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale

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#### EXPLANATORY NOTE

The purpose of the Bill is to amend the *Freedom of Information and Protection of Privacy Act, 1987* and the *Municipal Freedom of Information and Protection of Privacy Act, 1989* by authorizing heads of institutions to disregard a request for access to records if the request amounts to an abuse of the right of access. Persons whose requests for access are disregarded are entitled to notice of the head's decision and are entitled to appeal.

Section 1 of the Bill amends only the English version of the *Freedom of Information and Protection of Privacy Act, 1987*. The Legislature has not yet adopted an official French version of this Act.

#### NOTE EXPLICATIVE

Le projet de loi a pour objet de modifier la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* et la *Loi de 1989 sur l'accès à l'information municipale et la protection de la vie privée* en autorisant la personne responsable d'une institution à ne pas tenir compte d'une demande d'accès à un document si celle-ci représente un exercice abusif du droit d'accès. L'auteur de la demande a droit, dans ce cas, à un avis de la personne responsable et peut interjeter appel.

L'article 1 du projet de loi ne modifie que la version anglaise de la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

**An Act to amend the Law related to  
the Freedom of Information and  
Protection of Privacy**

**Loi portant modification des lois  
concernant l'accès à l'information et la  
protection de la vie privée**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Freedom of Information and Protection of Privacy Act, 1987* is amended by adding the following section:**

Abuse of  
right of  
access, deci-  
sion of head

Notice of  
decision

Content of  
notice

Right to  
appeal

**63a.**—(1) The head of an institution may decide to disregard a request for access to records if the request is vexatious, frivolous or amounts to an abuse of the right of access.

(2) The head shall, within thirty days after the request for access is received, give written notice of the decision to the person who made the request.

(3) The notice shall,

(a) set out the reasons for the decision, the date of the decision and the name and office of the person responsible for making the decision;

(b) identify the requests affected by the decision by their date; and

(c) indicate that the person may appeal to the Commissioner for a review of the decision.

(4) A decision under this section is subject to an appeal under Part IV.

**2. The *Municipal Freedom of Information and Protection of Privacy Act, 1989* is amended by adding the following section:**

Abuse of  
right of  
access, deci-  
sion of head

Notice of  
decision

Content of  
notice

**50a.**—(1) The head of an institution may decide to disregard a request for access to records if the request is vexatious, frivolous or amounts to an abuse of the right of access.

(2) The head shall, within thirty days after the request for access is received, give written notice of the decision to the person who made the request.

(3) The notice shall,

(a) set out the reasons for the decision, the date of the decision and the name and office of the person responsible for making the decision;

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1 La loi intitulée *Freedom of Information and Protection of Privacy Act, 1987* («*Loi de 1987 sur l'accès à l'information et la protection de la vie privée*») est modifiée par adjonction de l'article suivant :**

**2 La *Loi de 1989 sur l'accès à l'information municipale et la protection de la vie privée* est modifiée par adjonction de l'article suivant :**

**50a** (1) La personne responsable d'une institution peut décider de ne pas tenir compte d'une demande d'accès à des documents si celle-ci est vexatoire, frivole ou représente un exercice abusif du droit d'accès.

(2) Dans les trente jours suivant la réception de la demande, la personne responsable donne à l'auteur de la demande un avis écrit de la décision.

(3) L'avis :

a) donne les motifs de la décision, la date de la décision et le nom et le titre de l'auteur de la décision;

Exercice abusif du droit d'accès, décision de la personne responsable

Avis de décision

Teneur de l'avis



- (b) identify the requests affected by the decision by their date; and
- (c) indicate that the person may appeal to the Commissioner for a review of the decision.

Right to appeal

(4) A decision under this section is subject to an appeal under Part III.

Commence-  
ment

**3.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**4.** The short title of this Act is the *Freedom of Information and Protection of Privacy Statute Law Amendment Act, 1991*.

- b) identifie, par leur date, les demandes visées par la décision;
- c) indique à l'auteur de la demande qu'il peut interjeter appel de la décision devant le commissaire.

(4) Une décision aux termes du présent article est susceptible d'appel aux termes de la partie III.

Droit d'appel

**3** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**4** Le titre abrégé de la présente loi est *Loi de 1991 modifiant les lois concernant l'accès à l'information et la protection de la vie privée*.

Titre abrégé

Bill 121

Government Bill

Projet de loi 121

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

1<sup>re</sup> SESSION, 35<sup>e</sup> LÉGISLATURE, ONTARIO  
40 ELIZABETH II, 1991

## Bill 121

**An Act to revise the Law related to  
Residential Rent Regulation**

**The Hon. D. Cooke**  
Minister of Housing

1st Reading     June 6th, 1991  
2nd Reading  
3rd Reading  
Royal Assent

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## Projet de loi 121

**Loi révisant les lois relatives à la  
réglementation des loyers d'habitation**

**L'honorable D. Cooke**  
Ministre du Logement

1<sup>re</sup> lecture     6 juin 1991  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
sanction royale



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## EXPLANATORY NOTES

The Bill replaces the *Residential Rent Regulation Act, 1986*.

The Bill generally applies to living accommodation that would be considered a residential tenancy under the *Landlord and Tenant Act*. There are two principal exceptions. First, non-profit housing units financially supported by the federal and provincial governments are exempt. Second, newly built residential complexes are given a five-year exemption from all of the Act except the notice of rent increase provision.

### PART I

Part I sets out the basic rules for rent control. It also contains all of the matters on which an application under the Act may be based.

The guideline is the sum of the capital cost component and the operating cost component. The capital cost component for all residential complexes is 2 per cent. The operating cost component is one-half of the rent control index for residential complexes having seven or more residential units and is two-thirds of the rent control index for smaller residential complexes. The rent control index is to be determined taking into account the operating cost categories as set out in a Table to be prescribed.

A landlord can seek an increase above the guideline on any one or more of the following grounds:

1. An extraordinary increase in operating costs for municipal taxes, hydro, water or heating.
2. An eligible capital expenditure related to the complex as a whole or to a rental unit in it. A capital expenditure is eligible if it relates to the physical integrity of the building; health and safety standards; plumbing, heating, mechanical, electrical, ventilation and air-conditioning systems; access for persons with disabilities; or increased energy conservation. It is not eligible if it became necessary as a result of neglect or if it is an unnecessary replacement.
3. Any capital expenditure related to the complex as a whole or to a rental unit in it if the work was completed between January 1, 1990 and June 6, 1991. This ground is not available if the expenditure became necessary as a result of neglect. Also, an application on this ground must be made within six months of proclamation of the Bill.
4. A capital expenditure related to a rental unit if the tenant consents to the application.
5. New or additional services respecting a rental unit if the tenant consents to the application.

An increase awarded cannot exceed the guideline by more than 3 per cent in any year. The excess of an increase related to capital expenditures may be carried forward for one year for all residential complexes and, in the case of a residential complex having six or fewer residential units, for an additional year.

A landlord may apply for an advance determination of an issue, similar to a conditional order, respecting capital expenditures or new or additional services.

## NOTES EXPLICATIVES

Le projet de loi remplace la *Loi de 1986 sur la réglementation des loyers d'habitation*.

Le projet de loi s'applique, de façon générale, aux logements qui seraient considérés comme des locaux à usage d'habitation aux termes de la *Loi sur la location immobilière*. Il présente deux exceptions majeures. Premièrement, les logements sans but lucratif subventionnés par les gouvernements fédéral et provincial sont exemptés. Deuxièmement, les ensembles d'habitation nouvellement construits sont soustraits, pendant cinq ans, à l'application de toute la Loi à l'exception de la disposition relative à l'avis d'augmentation de loyer.

### PARTIE I

La partie I énonce les règles de base du contrôle des loyers. Elle énonce également toutes les questions sur lesquelles peut se fonder une requête présentée en vertu de la Loi.

Le taux légal correspond à la somme de la composante des dépenses en immobilisations et de la composante des frais d'exploitation. La composante des dépenses en immobilisations est de 2 pour cent pour tous les ensembles d'habitation. La composante des frais d'exploitation correspond à la moitié de l'indice du contrôle des loyers pour les ensembles d'habitation qui comprennent sept unités de logement ou plus, et aux deux tiers de l'indice du contrôle des loyers pour les ensembles d'habitation plus petits. L'indice du contrôle des loyers est déterminé en tenant compte des catégories de frais d'exploitation énoncées dans le barème qui sera prescrit.

Le locateur peut tenter d'obtenir une augmentation supérieure au taux légal en se fondant sur un ou plusieurs des motifs suivants :

1. Une augmentation extraordinaire des frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.
2. Une dépense en immobilisations admissible à l'égard de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve. Une dépense en immobilisations est admissible si elle se rapporte à l'intégrité physique de l'immeuble, à des normes de santé et de sécurité, à une installation mécanique ou électrique, à une installation de plomberie, de ventilation ou de climatisation ou à un système de chauffage, à l'accès pour les personnes qui ont un handicap, ou à l'augmentation des économies d'énergie. Elle n'est pas admissible si elle est devenue nécessaire en raison de négligence ou s'il s'agit d'un remplacement inutile.
3. Toute dépense en immobilisations à l'égard de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve, si les travaux ont été achevés entre le 1<sup>er</sup> janvier 1990 et le 6 juin 1991. Ce motif ne peut être invoqué si la dépense est devenue nécessaire en raison de négligence. En outre, la requête fondée sur ce motif doit être présentée dans les six mois qui suivent la date de proclamation du projet de loi.
4. Une dépense en immobilisations à l'égard d'un logement locatif, si le locataire consent à la requête.
5. De nouveaux services ou des services supplémentaires à l'égard d'un logement locatif, si le locataire consent à la requête.

L'augmentation accordée ne peut dépasser le taux légal de plus de 3 pour cent dans une année. L'excédent d'une augmentation à l'égard de dépenses en immobilisations peut être reporté d'une année pour tous les ensembles d'habitation. Dans le cas d'un ensemble d'habitation qui comprend six unités de logement ou moins, l'excédent peut être reporté d'une autre année.

Le locateur peut demander, par voie de requête, qu'une décision anticipée, similaire à un arrêté conditionnel, soit rendue au sujet d'une question concernant des dépenses en immobilisations, de nouveaux services ou des services supplémentaires.



A tenant may apply for a rent reduction on any one or more of the following grounds:

1. An extraordinary reduction in operating costs for municipal taxes, hydro, water or heating.
2. Inadequate maintenance of the complex as a whole or of a rental unit in it.
3. Reduced services to the complex as a whole or to a rental unit in it.

An order on a tenant application may reduce the rent charged for a specified period or may reduce the maximum rent. It may also order a rent rebate.

Applications for the repayment of money are permitted not only for payment of illegal rent but also for key money offences committed by landlords or tenants.

A rent penalty order may be issued if a landlord does not comply with a municipal or provincial work order or fails to file information with the Registrar when required to do so. Such a rent penalty order could void any notices of rent increase for which a rent increase had not yet been taken and could prevent a landlord from issuing a notice of rent increase and increasing rent while it remains in effect. In the case of work orders, such a rent penalty order would apply to the rental units affected by the work order and, in the case of failure to file information, such a rent penalty order would apply to the whole residential complex.

An application can be made to determine a number of issues related to the Act, including the application of the Act; determination of maximum rent; and determinations respecting the filing of information and the Registrar's rent calculation.

## PART II

Part II sets out the procedural rules to be followed in all applications under the Act.

All applications are determined by rent officers appointed under the Act. The applications must be determined after holding a hearing if any party requests a hearing or if the Chief Rent Officer so directs. Otherwise, the proceedings are determined by administrative review. In those cases where there is to be a hearing, there is also provision for a pre-hearing conference. An order of a rent officer can be appealed to the Divisional Court only on a matter of law.

Provision is made for joining or severing applications.

The functions now carried out by the Standards Board are carried out by the Director of Rent Control and rent officers.

## PART III

Part III of the Bill provides for a rent registry system.

A landlord is required to file specified information with the Registrar if the landlord's residential complex contains four or more residential units or if the Registrar requires the registration. Registrations under the *Residential Rent Regulation Act, 1986* are carried forward to the new rent registry and those landlords who have previously registered are not required to do so again.

Le locataire peut demander, par voie de requête, une réduction de loyer en se fondant sur un ou plusieurs des motifs suivants :

1. Une réduction extraordinaire des frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.
2. L'entretien inadéquat de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.
3. La réduction des services fournis à tout l'ensemble d'habitation ou à un logement locatif qui s'y trouve.

L'ordonnance rendue par suite d'une requête d'un locataire peut réduire le loyer demandé pour une période précisée ou elle peut réduire le loyer maximal. Elle peut également exiger un remboursement de loyer.

Les requêtes visant le remboursement de sommes d'argent sont permises non seulement dans le cas du paiement d'un loyer illégal mais aussi dans le cas d'infractions commises par un locateur ou un locataire qui se rapportent à des charges illégales.

Un ordre ou une ordonnance interdisant au locateur d'augmenter le loyer peut lui être délivré s'il ne se conforme pas à un arrêté, un ordre ou une ordonnance municipal ou provincial d'exécution de travaux ou qu'il omet de déclarer des renseignements au registrateur lorsqu'il est tenu de le faire. Un tel ordre ou une telle ordonnance d'interdiction a pour effet d'annuler les avis d'augmentation de loyer à l'égard desquels une augmentation de loyer n'a pas encore été perçue et, tant que l'ordre ou l'ordonnance est en vigueur, d'empêcher le locateur de donner un avis d'augmentation de loyer et d'augmenter le loyer. Dans le cas d'un arrêté, d'un ordre ou d'une ordonnance d'exécution de travaux, l'ordre ou l'ordonnance d'interdiction s'applique aux logements locatifs visés par l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux, et dans le cas d'un défaut de déclarer des renseignements, l'ordre ou l'ordonnance d'interdiction s'applique à tout l'ensemble d'habitation.

Une requête peut être présentée en vue de trancher certaines questions en litige se rapportant à la Loi, notamment l'application de celle-ci, la détermination du loyer maximal et les décisions concernant la déclaration de renseignements et le calcul du loyer effectué par le registrateur.

## PARTIE II

La partie II énonce les règles de procédure à suivre pour toutes les requêtes présentées en vertu de la Loi.

Toutes les requêtes font l'objet d'une décision de la part d'un agent des loyers nommé en vertu de la présente loi. Une décision à l'égard d'une requête doit être rendue à l'issue d'une audience si une partie demande la tenue d'une audience ou que l'agent principal des loyers ordonne celle-ci. S'il n'y a pas d'audience, la décision au sujet de l'instance est rendue par voie de révision administrative. Une conférence préparatoire à l'audience est également prévue dans les cas où une audience doit être tenue. L'ordonnance rendue par un agent des loyers ne peut faire l'objet d'un appel auprès de la Cour divisionnaire que sur une question de droit.

La jonction ou la séparation des requêtes est prévue.

Les fonctions actuellement assumées par le Conseil des normes le seront désormais par le directeur du contrôle des loyers et les agents des loyers.

## PARTIE III

La partie III du projet de loi prévoit un système de registre des loyers.

Le locateur est tenu de déclarer au registrateur certains renseignements si son ensemble d'habitation comprend quatre unités de logement ou plus ou si le registrateur exige l'inscription. Les inscriptions effectuées aux termes de la *Loi de 1986 sur la réglementation des loyers d'habitation* sont reportées au nouveau registre des loyers. Les locateurs qui étaient déjà inscrits ne sont pas tenus de s'inscrire de nouveau.



The Registrar is required to calculate the maximum rent for those rental units for which information has been filed. The rent registry records the maximum rent for the rental units registered in it. Notice of rent information is given to landlords and tenants after the Registrar has received the initial information for filing and calculated maximum rent. If no application is made within six months of the Registrar's notice, the Registrar's calculation of maximum rent is deemed to have the same effect as an order. Other information in the rent registry can be given on request.

#### PART IV

Part IV provides for the appointment of a Director of Rent Control, inspectors, rent officers and the Registrar. It sets out powers of entry, search and seizure. It sets out the offences and regulation-making power as well as providing for general provisions, repeals and transition provisions.

The offences created under the Bill include furnishing false or misleading information, increasing or charging rent in contravention of the Act, contravening the key money prohibitions, failing to obey a provincial work order or to file a statement of rent information, obstructing or interfering with an inspector and harassing a tenant.

Le registrateur doit calculer le loyer maximal des logements locatifs au sujet desquels des renseignements ont été déclarés. Le loyer maximal des logements locatifs inscrits dans le registre des loyers est consigné dans celui-ci. Un avis de renseignements sur les loyers est donné aux locateurs et aux locataires après que le registrateur a reçu les premiers renseignements à consigner dans le registre et calculé le loyer maximal. Si aucune requête n'est présentée dans les six mois qui suivent l'avis du registrateur, le calcul du loyer maximal effectué par le registrateur est réputé avoir le même effet qu'une ordonnance. D'autres renseignements contenus dans le registre des loyers peuvent être donnés sur demande.

#### PARTIE IV

La partie IV prévoit la nomination du directeur du contrôle des loyers, d'inspecteurs, d'agents des loyers et du registrateur. Elle énonce le pouvoir de pénétrer, ainsi que les pouvoirs d'effectuer une perquisition et une saisie. Elle prévoit aussi les infractions et les pouvoirs réglementaires, ainsi que des dispositions générales, abrogatives et transitoires.

Les infractions créées par le projet de loi comprennent le fait de fournir des renseignements faux ou trompeurs, d'augmenter ou de demander un loyer contrairement à la Loi, de contrevenir aux interdictions à l'égard des charges illégales, de ne pas se conformer à un arrêté, un ordre ou une ordonnance provincial d'exécution de travaux ou de ne pas déposer de déclaration de renseignements sur les loyers, d'entraver le travail d'un inspecteur ou d'empêcher celui-ci de le faire, et de harceler un locataire.

**An Act to revise the Law related to  
Residential Rent Regulation**

**Loi révisant les lois relatives à la  
réglementation des loyers d'habitation**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1.—(1)** In this Act,

“Director” means the Director of Rent Control appointed under section 110; (“directeur”)

“guideline”, in respect of a rental unit in a residential complex, means the rent control guideline determined under section 12 for that residential complex; (“taux légal”)

“landlord” includes,

- (a) the owner or other person permitting occupancy of a rental unit,
- (b) the heirs, assigns, personal representatives and successors in title of a person referred to in clause (a), and
- (c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent; (“locateur”)

“maximum rent” means the lawful maximum rent for a rental unit; (“loyer maximal”)

“Minister” means the Minister of Housing; (“ministre”)

“Ministry” means the Ministry of Housing; (“ministère”)

“mobile home” means any dwelling that is designed to be made mobile and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer, tent

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, édicte :

## Définitions

**1 (1)** Les définitions qui suivent s’appliquent à la présente loi.

«bail» Convention écrite, verbale ou tacite entre le locateur et le locataire relativement à l’occupation d’un logement locatif. («tenancy agreement»)

«coopérative de logement sans but lucratif» Personne morale constituée sans capital-actions en vertu de la loi intitulée *Cooperative Corporations Act* («Loi sur les sociétés coopératives») ou d’une loi que celle-ci remplace, ou en vertu d’une loi analogue du Canada ou d’une province, dont le but et la fonction consistent principalement à fournir le logement à ses membres et dont la charte ou les règlements administratifs prévoient ce qui suit :

- a) ses activités sont exercées sans but lucratif pour ses membres,
- b) si elle est dissoute, ses biens sont distribués, après acquittement de ses dettes et obligations, à des organismes sans but lucratif ou à des oeuvres de bienfaisance,
- c) les frais de logement, les autres charges analogues au loyer ou les autres charges payables par les membres sont fixés par un vote de ces derniers ou d’un groupe dûment élu ou nommé par les membres ou un comité de ce groupe,
- d) il ne peut être mis fin aux droits d’occupation d’un membre que par un vote des membres ou d’un groupe dûment élu ou nommé par les membres ou un comité de ce groupe, le vote n’étant pris qu’après que ce membre a reçu le

trailer or a trailer otherwise designed;  
("maison mobile")

"mobile home park" means the rental units, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied mobile homes are located for a period of sixty days or more; ("parc de maisons mobiles")

"non-profit co-operative housing corporation" means a corporation incorporated without share capital under the *Co-operative Corporations Act* or any predecessor of it or under similar legislation of Canada or any province, the main purpose and activity of which is the provision of housing for its members, and the charter or by-laws of which provide that,

- (a) its activities shall be carried on without the purpose of gain for its members,
- (b) on dissolution, its property after payment of its debts and liabilities, shall be distributed to non-profit or charitable organizations,
- (c) housing charges, other charges similar to rent, or any other charges payable by members are decided by a vote of the members or of a body duly elected or appointed by the members, or a committee of that body,
- (d) termination of occupancy rights may be brought about only by a vote of the members or of a body duly elected or appointed by the members or a committee of that body, which vote is not taken until after the member whose occupancy rights are terminated is given a right to appear and make representations; ("coopérative de logement sans but lucratif")

"person", or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust, body corporate, and an individual in his or her capacity as a trustee, executor, administrator or other legal representative; ("personne")

"prescribed" means prescribed by the regulations made under this Act; ("prescrit")

"rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant to a landlord or the landlord's agent for the right to occupy a rental unit and for any services and facilities or any privilege, accommodation or thing that the landlord provides for the tenant in respect of the occupancy of the rental unit, whether or

droit de comparaître et de présenter des observations. («non-profit co-operative housing corporation»)

«directeur» Le directeur du contrôle des loyers nommé aux termes de l'article 110. («Director»)

«ensemble d'habitation» S'entend, selon le cas :

- a) d'un immeuble ou d'un groupe d'immeubles connexes où sont situés un ou plusieurs logements locatifs,
- b) d'un parc de maisons mobiles où sont situés un ou plusieurs logements locatifs,
- c) d'un emplacement qui constitue un logement locatif,
- d) d'un groupe d'emplacements connexes dont chacun constitue un logement locatif.

S'entend en outre de toutes les aires communes et de tous les services et installations dont disposent les résidents. («residential complex»)

«locataire» Personne qui paie un loyer en échange du droit d'occuper un logement locatif. S'entend notamment des héritiers, cessionnaires et représentants personnels du locataire. Est exclue de la présente définition la personne qui a le droit d'occuper un logement locatif du fait qu'elle est, selon le cas :

- a) un copropriétaire de l'ensemble d'habitation dans lequel se trouve le logement locatif,
- b) un actionnaire de la personne morale qui est propriétaire de l'ensemble d'habitation. («tenant»)

«locateur» S'entend notamment :

- a) du propriétaire d'un logement locatif ou d'une autre personne qui en permet l'occupation,
- b) des héritiers d'une personne mentionnée à l'alinéa a), de ses cessionnaires, de ses représentants personnels et de ses ayants droit,
- c) d'une personne, autre qu'un locataire qui occupe un logement locatif dans un ensemble d'habitation, qui a droit à la possession de l'ensemble d'habitation et qui tente de faire respecter les droits d'un locateur prévus par un bail ou par la présente loi, y compris le droit de percevoir un loyer. («landlord»)

«logement locatif» Logement, emplacement de maison mobile ou emplacement où se trouve une habitation unifamiliale consti-



not a separate charge is made for services and facilities or for the privilege, accommodation or thing, but "rent" does not include any amount,

- (a) paid by a tenant to a landlord to reimburse the landlord for property taxes paid by the landlord to a municipality in respect of a mobile home, or a home which is a permanent structure owned by a tenant, and
- (b) in respect of which the landlord can establish the portion of the municipal taxes that relates to the tenant's mobile home or home which is a permanent structure; ("loyer")

"rental unit" means any living accommodation, site for a mobile home or site on which there is a single-family dwelling that is a permanent structure where the living accommodation or site is used or intended for use as rented residential premises and includes a room in a boarding house or lodging house; ("logement locatif")

"residential complex" means,

- (a) a building or related group of buildings in which one or more rental units are located,
- (b) a mobile home park in which one or more rental units are located,
- (c) a site that is a rental unit, or
- (d) a related group of sites each of which is a rental unit,

and "residential complex" includes all common areas and services and facilities available for the use of its residents; ("ensemble d'habitation")

"residential unit" means any living accommodation, site for a mobile home or site on which there is a single-family dwelling that is a permanent structure where the living accommodation or site is used or intended for use as residential premises and includes a room in a boarding house or lodging house; ("unité de logement")

"services and facilities" includes,

- (a) furniture, appliances and furnishings,
- (b) parking and related facilities,
- (c) laundry facilities,
- (d) elevator facilities,
- (e) common recreational facilities,
- (f) garbage facilities and related services,
- (g) cleaning and maintenance services,
- (h) storage facilities,
- (i) intercom systems,

tuant une construction permanente, servant ou destinés à servir de local d'habitation loué. S'entend notamment d'une chambre dans une pension ou un meublé. («rental unit»)

«loyer» S'entend notamment du montant de la contrepartie que le locataire ou une personne en son nom paie ou remet, ou doit payer ou remettre, au locateur ou à son représentant pour le droit d'occuper un logement locatif et pour les services et installations, privilèges, commodités ou choses que le locateur fournit au locataire à l'égard de l'occupation du logement locatif, que des charges distinctes soient exigées ou non pour les services et installations, privilèges, commodités ou choses. Sont exclues de la présente définition :

- a) une somme payée par le locataire au locateur pour rembourser les impôts fonciers payés par le locateur à une municipalité à l'égard d'une maison mobile ou d'une maison constituant une construction permanente, dont le locataire est propriétaire,
- b) une somme à l'égard de laquelle le locateur est en mesure d'établir la portion des impôts municipaux qui se rapporte à la maison mobile du locataire ou à la maison du locataire qui constitue une construction permanente. («rent»)

«loyer maximal» Le loyer maximal légal d'un logement locatif. («maximum rent»)

«maison mobile» Habitation destinée à pouvoir être déplacée, et construite ou fabriquée de façon à servir de résidence permanente à une ou plusieurs personnes. Sont exclus de la présente définition la roulotte, la tente-remorque et tout autre genre de remorque. («mobile home»)

«ministère» Le ministère du Logement. («Ministry»)

«ministre» Le ministre du Logement. («Minister»)

«parc de maisons mobiles» Les logements locatifs, ainsi que le terrain, les constructions et les services et installations qui demeurent en la possession du locateur et qui sont destinés à l'usage commun des locataires du locateur, où deux maisons mobiles habitées ou plus sont installées pendant une période minimale de soixante jours. («mobile home park»)

«personne» S'entend d'un particulier, d'une entreprise à propriétaire unique, d'une société en nom collectif, d'une société en commandite, d'une fiducie, d'une personne morale et d'un particulier en sa qualité de fiduciaire, d'exécuteur testamentaire, d'ad-

- (j) cablevision facilities,
- (k) heating facilities and services,
- (l) air-conditioning facilities,
- (m) utilities and related services,
- (n) security services and facilities; (“services et installations”)

“tenancy agreement” means an agreement between a landlord and a tenant for occupancy of a rental unit, whether the agreement is written, oral or implied; (“bail”)

“tenant” means a person who pays rent in return for the right to occupy a rental unit and includes the tenant’s heirs, assigns and personal representatives, but “tenant” does not include a person who has the right to occupy a rental unit by virtue of being,

- (a) a co-owner of the residential complex in which the rental unit is located, or
- (b) a shareholder of a corporation that owns the residential complex. (“locataire”)

ministrateur successoral ou d’ayant droit. La présente définition s’applique à toute formulation de sens analogue. («person»)

«prescrit» Prescrit par les règlements pris en application de la présente loi. («prescribed»)

«services et installations» S’entend notamment de ce qui suit :

- a) les meubles, les appareils ménagers et l’ameublement,
- b) le stationnement et les installations connexes,
- c) les installations de buanderie,
- d) les ascenseurs et les monte-charge,
- e) les installations récréatives communes,
- f) les installations d’enlèvement des ordures et les services connexes,
- g) les services de nettoyage et d’entretien,
- h) les installations d’entreposage,
- i) les réseaux d’interphone,
- j) les installations de câblodistribution,
- k) les installations et les services de chauffage,
- l) les installations de climatisation,
- m) les services publics et les services connexes,
- n) les services et les installations de sécurité. («services and facilities»)

«taux légal» À l’égard d’un logement locatif d’un ensemble d’habitation, s’entend du taux légal aux fins du contrôle des loyers établi aux termes de l’article 12 pour cet ensemble d’habitation. («guideline»)

«unité de logement» Logement, emplacement de maison mobile ou emplacement où se trouve une habitation unifamiliale constituant une construction permanente, servant ou destinés à servir de local d’habitation. S’entend notamment d’une chambre dans une pension ou un meublé. («residential unit»)

Rental unit, clarification

(2) A rented site for a mobile home or a single-family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single-family dwelling on the site is owned by the tenant of the site.

Initial rent date

(3) A reference in this Act to the initial rent date for a rental unit shall, except where otherwise prescribed, be deemed to be a reference to the date set out in the first of the following paragraphs that applies to the rental unit:

(2) Tout emplacement loué de maison mobile ou d’habitation unifamiliale constitue un logement locatif pour l’application du paragraphe (1), même si la maison mobile ou l’habitation unifamiliale qui se trouve sur l’emplacement est la propriété du locataire de l’emplacement.

Précision relative au logement locatif

(3) Dans la présente loi, la mention de la date du loyer initial d’un logement locatif est réputée, sauf s’il en est prescrit autrement, la mention de la date énoncée dans la première des dispositions suivantes qui s’applique au logement locatif :

Date du loyer initial



1. In the case of a rental unit in a residential complex to which subsection 3 (5) applies, the date on which Part I first applies to it.
2. In the case of a rental unit to which Part VI or VI-A of the *Residential Rent Regulation Act, 1986* did not apply,
  - i. the day it is first rented after the day this section is proclaimed in force if it was not rented on or before that day, or
  - ii. the day this section is proclaimed in force, otherwise.
3. In the case of a rental unit in a residential complex containing six or fewer residential units or of a rental unit in a residential complex that is a boarding house or a lodging house,
  - i. the date it is first rented, if it was not rented on or before the 1st day of October, 1990,
  - ii. the 1st day of October, 1990, if it was rented on that date,
  - iii. the last date on which it was rented before the 1st day of October, 1990, if it was not rented on that date and was rented before that date.
4. In the case of a rental unit in a residential complex containing seven or more residential units,
  - i. the date it is first rented after the 1st day of July, 1985, if it was not rented on or before that day,
  - ii. the 1st day of July, 1985, otherwise.

Application  
of Act

**2.—**(1) This Act applies to rental units in residential complexes, despite any other Act and despite any agreement or waiver to the contrary.

Conflict

(2) If a provision of this Act conflicts with a provision of another Act, other than the *Human Rights Code, 1981*, the provision of this Act applies.

Exemptions  
from Act

**3.—**(1) This Act does not apply to,

1. Dans le cas d'un logement locatif d'un ensemble d'habitation auquel s'applique le paragraphe 3 (5), la date à laquelle la partie I commence à s'appliquer au logement locatif.
2. Dans le cas d'un logement locatif auquel la partie VI ou VI-A de la loi intitulée *Residential Rent Regulation Act, 1986* («*Loi de 1986 sur la réglementation des loyers d'habitation*») ne s'appliquait pas :
  - i. le jour où il est loué pour la première fois après le jour où le présent article est proclamé en vigueur, s'il n'était pas loué à ce jour ou avant ce jour,
  - ii. le jour où le présent article est proclamé en vigueur, s'il en était autrement.
3. Dans le cas d'un logement locatif d'un ensemble d'habitation comprenant six unités de logement ou moins, ou d'un logement locatif d'un ensemble d'habitation qui est une pension ou un meublé :
  - i. la date à laquelle il est loué pour la première fois, s'il n'était pas loué au 1<sup>er</sup> octobre 1990 ou avant cette date,
  - ii. le 1<sup>er</sup> octobre 1990, s'il était loué à cette date,
  - iii. la dernière date à laquelle il était loué avant le 1<sup>er</sup> octobre 1990, s'il n'était pas loué à cette date mais était loué avant cette date.
4. Dans le cas d'un logement locatif d'un ensemble d'habitation comprenant sept unités de logement ou plus :
  - i. la date à laquelle il est loué pour la première fois après le 1<sup>er</sup> juillet 1985, s'il n'était pas loué à cette date ou avant cette date,
  - ii. le 1<sup>er</sup> juillet 1985, s'il en était autrement.

**2** (1) La présente loi s'applique aux logements locatifs qui se trouvent dans des ensembles d'habitation, malgré toute autre loi et toute convention ou renonciation contraires.

Champ  
d'application

(2) En cas d'incompatibilité entre une disposition de la présente loi et une disposition d'une loi autre que la loi intitulée *Human Rights Code, 1981* («*Code des droits de la personne (1981)*»), la disposition de la présente loi s'applique.

Incompati-  
bilité

**3** (1) La présente loi ne s'applique pas aux logements suivants :

Exemptions

- (a) accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home;
- (b) living accommodation occupied as a vacation home for a seasonal or temporary period not exceeding four months;
- (c) living accommodation whose occupancy is conditional upon the occupant continuing to be employed on a farm, whether or not the accommodation is located on that farm;
- (d) living accommodation provided by a non-profit co-operative housing corporation to its members;
- (e) living accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care;
- (f) accommodation that is subject to the *Public Hospitals Act*, the *Private Hospitals Act*, the *Community Psychiatric Hospitals Act*, the *Mental Hospitals Act*, the *Homes for Special Care Act*, the *Homes for the Aged and Rest Homes Act*, the *Homes for Retarded Persons Act*, the *Nursing Homes Act*, the *Ministry of Correctional Services Act*, the *Charitable Institutions Act*, the *Child and Family Services Act, 1984*, the *Developmental Services Act*, the *Ministry of Health Act* or the *Ministry of Community and Social Services Act*;
- (g) short term living accommodation provided as emergency shelter;
- a) les logements fournis aux voyageurs et aux vacanciers dans un hôtel, un motel, un hôtel de tourisme, un lieu de séjour, un camp de vacances, un établissement composé de chalets ou de maisonnettes, une auberge, un terrain de camping, un parc à roulotte, une maison de chambres pour touristes, un établissement offrant gîte et couvert ou une résidence de vacances à la ferme;
- b) un logement occupé comme résidence de vacances pendant une période saisonnière ou temporaire qui ne dépasse pas quatre mois;
- c) un logement dont l'occupation dépend du fait que l'occupant continue d'être employé dans une exploitation agricole, que le logement soit situé ou non dans l'exploitation agricole;
- d) un logement fourni par une coopérative de logement sans but lucratif à ses membres;
- e) un logement occupé par une personne à des fins pénales, correctionnelles ou thérapeutiques, ou à des fins de réadaptation, ou pour y recevoir des soins;
- f) un logement assujéti à l'une des lois suivantes, soit les lois intitulées *Public Hospitals Act* («Loi sur les hôpitaux publics»), *Private Hospitals Act* («Loi sur les hôpitaux privés»), *Community Psychiatric Hospitals Act* («Loi sur les hôpitaux psychiatriques communautaires»), *Mental Hospitals Act* («Loi sur les hôpitaux psychiatriques»), *Homes for Special Care Act* («Loi sur les foyers de soins spéciaux»), *Homes for the Aged and Rest Homes Act* («Loi sur les foyers pour personnes âgées et les maisons de repos»), *Homes for Retarded Persons Act* («Loi sur les foyers pour déficients mentaux»), *Nursing Homes Act* («Loi sur les maisons de soins infirmiers»), *Ministry of Correctional Services Act* («Loi sur le ministère des Services correctionnels»), *Charitable Institutions Act* («Loi sur les établissements de bienfaisance»), *Child and Family Services Act, 1984* («Loi de 1984 sur les services à l'enfance et à la famille»), *Developmental Services Act* («Loi sur les services aux personnes atteintes d'un handicap de développement»), *Ministry of Health Act* («Loi sur le ministère de la Santé») ou *Ministry of Community and Social Services Act* («Loi sur le ministère des Services sociaux et communautaires»);
- g) un refuge d'urgence destiné à héberger temporairement des personnes;



(h) living accommodation provided by an educational institution to its students or staff where,

- (i) the living accommodation is provided primarily to persons under the age of majority, or
- (ii) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents,

unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupancy by full-time students or staff and members of their households;

- (i) living accommodation located in a building or project used in whole or in part for non-residential purposes if the occupancy of the living accommodation is conditional upon the occupant continuing to be an employee of or perform services related to a business or enterprise carried out in the building or project;
- (j) living accommodation whose occupant is required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent, or the spouse's child or parent;
- (k) premises occupied for business or agricultural purposes with living accommodation attached if the occupancy for both purposes are under a single lease and the same person occupies the premises and the living accommodation.

(2) Sections 7 and 8 (notice of rent increase) are the only sections of this Act that apply to,

- (a) subject to subsection (3), a rental unit located in a residential complex owned, operated or administered by or on behalf of the Ontario Housing Corporation, the Government of Canada or an agency of the Government of Canada;
- (b) a rental unit located in a non-profit housing project, which is financially assisted by the Government of Canada or Ontario, a municipality or a regional, district or metropolitan municipality or an agency of any of them;

h) un logement fourni par un établissement d'enseignement à ses étudiants ou à son personnel si, selon le cas :

- (i) le logement est fourni principalement à des mineurs,
- (ii) toutes les questions importantes ayant trait au logement sont réglées après consultation d'un conseil ou d'une association représentant les résidents,

sauf si le logement est doté d'une salle de bains et d'une cuisine indépendantes et qu'il est destiné à être occupé à longueur d'année par des étudiants ou membres du personnel à temps plein, ainsi que des membres du ménage de ces étudiants ou de ces membres du personnel;

- i) un logement situé dans un immeuble ou un chantier utilisé en totalité ou en partie à des fins autres que l'habitation si l'occupation du logement dépend du fait que l'occupant continue d'être employé dans un commerce ou une entreprise exploité dans l'immeuble ou le chantier, ou continue de fournir des services relatifs à ce commerce ou à cette entreprise;
- j) un logement dont l'occupant doit partager une salle de bains ou une cuisine avec le propriétaire, son conjoint, son enfant, son père ou sa mère, ou l'enfant, le père ou la mère du conjoint;
- k) des locaux occupés dans le cadre d'une exploitation commerciale ou agricole, et auxquels est rattaché un logement, si l'occupation des locaux et du logement fait l'objet d'un bail unique et que la même personne occupe les locaux et le logement.

(2) Les articles 7 et 8 (avis d'augmentation de loyer) sont les seuls articles de la présente loi qui s'appliquent aux logements suivants :

- a) sous réserve du paragraphe (3), un logement locatif situé dans un ensemble d'habitation qui appartient à la société appelée Ontario Housing Corporation, au gouvernement du Canada ou à un organisme qui relève de celui-ci, ou qui est exploité ou administré par l'un d'eux ou au nom de l'un d'eux;
- b) un logement locatif situé dans un projet d'habitation sans but lucratif qui fait l'objet d'une aide financière de la part du gouvernement du Canada ou de l'Ontario, d'une municipalité ou d'une municipalité régionale, de district ou de communauté urbaine, ou

Partial  
exemption

Exemption  
partielle

(c) a rental unit located in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);

(d) a rental unit provided by a non-profit co-operative housing corporation to tenants who are not its members;

(e) subject to subsection (4), a rental unit that is provided by an educational institution to a student or member of its staff and that is not exempt from this Act under clause (1) (h);

(f) a rental unit located in a residential complex owned, operated or administered by a religious institution for a charitable use on a non-profit basis.

Exception to  
cl. (2) (a)

(3) This Act applies to a rental unit described in clause (2) (a) if the tenant occupying the rental unit pays rent to a landlord other than the Ontario Housing Corporation, the Government of Canada or an agency of the Government of Canada.

Exception to  
cl. (2) (e)

(4) This Act applies in respect of a rent increase for rental units described in clause (2) (e) if there is a council or association representing the residents of those rental units and there has not been consultation with the council or association respecting the increase.

Time limited  
exemption

(5) Sections 7 and 8 are the only sections of this Act that apply to a rental unit in a new residential complex during the period of five years commencing with the day the first rental unit in the residential complex is first rented if, :

(a) the building permit for the residential complex was issued on or after the 6th day of June, 1991; and

(b) before the landlord enters into a tenancy agreement with a tenant of the rental unit, the landlord gives the tenant a notice in the prescribed form stating that because of this subsection only sections 7 and 8 of this Act will apply to the rental unit until the date set out in the notice.

Clarification

(6) If a landlord fails to give the tenant of a rental unit referred to in subsection (5) the notice as required under clause (5) (b), this

d'un organisme qui relève de l'un d'eux;

c) un logement locatif situé dans un projet coopératif d'habitation sans but lucratif au sens de la *Loi nationale sur l'habitation* (Canada);

d) un logement locatif fourni par une coopérative de logement sans but lucratif à des locataires qui n'en sont pas membres;

e) sous réserve du paragraphe (4), un logement locatif qui est fourni par un établissement d'enseignement à un étudiant ou à un membre de son personnel et qui n'est pas soustrait à l'application de la présente loi aux termes de l'alinéa (1) h);

f) un logement locatif situé dans un ensemble d'habitation dont un établissement religieux est propriétaire ou assure l'exploitation ou l'administration sans but lucratif et à des fins de bienfaisance.

(3) La présente loi s'applique à un logement locatif visé à l'alinéa (2) a) si le locataire qui occupe le logement locatif verse un loyer à un locateur qui n'est ni la société appelée Ontario Housing Corporation ni le gouvernement du Canada ni un organisme qui relève de celui-ci.

Exception à  
l'alinéa (2) a)

(4) La présente loi s'applique à une augmentation de loyer des logements locatifs visés à l'alinéa (2) e) si un conseil ou une association représente les résidents de ces logements locatifs et que le conseil ou l'association n'a pas été consulté au sujet de l'augmentation.

Exception à  
l'alinéa (2) e)

(5) Les articles 7 et 8 sont les seuls articles de la présente loi qui s'appliquent à un logement locatif d'un nouvel ensemble d'habitation pendant la période de cinq ans qui commence le jour où le premier logement locatif de l'ensemble d'habitation est loué pour la première fois, si :

Exemption  
limitée dans  
le temps

a) d'une part, le permis de construire pour l'ensemble d'habitation a été délivré le 6 juin 1991 ou après cette date;

b) d'autre part, avant qu'il ne conclue un bail avec un locataire du logement locatif, le locateur donne au locataire un avis, rédigé selon la formule prescrite, indiquant qu'en raison du présent paragraphe, seuls les articles 7 et 8 de la présente loi s'appliqueront au logement locatif jusqu'à la date fixée dans l'avis.

(6) Si le locateur omet de donner au locataire d'un logement locatif mentionné au paragraphe (5) l'avis qu'il est tenu de donner

Précision



whole Act continues to apply in respect of all subsequent tenants of that rental unit.

Date

(7) The date set out in the notice under subsection (5) shall be the date that is five years after the first rental unit in the residential complex is rented for the first time.

Subsidized housing

(8) This Act applies to a rental unit if,

(a) the tenant of the rental unit pays an amount geared-to-income for that unit because of public funding provided by the Government of Canada or Ontario, a municipality or a regional, district or metropolitan municipality or an agency of any of them;

(b) the payment is made under the *National Housing Act* (Canada), the *Housing Development Act* or the *Ontario Housing Corporation Act*; and

(c) the rental unit is not a unit referred to in clause (2) (a),

but this Act does not apply to an increase in the amount geared-to-income paid by a tenant who is occupying such a rental unit.

Act binds Crown

**4.** This Act binds the Crown.

## PART I

### RENT CONTROL

No charge greater than maximum rent

**5.—(1)** No landlord shall charge rent for a rental unit in an amount that exceeds the maximum rent for that rental unit.

No charge greater than ordered

(2) No landlord shall charge rent for a rental unit in an amount that exceeds the charge permitted under this Act or an order made under this Act.

When increase permitted

**6.** A landlord shall not increase the rent charged for a rental unit unless at least twelve months have elapsed,

(a) since the date of the last rent increase for that rental unit; or

(b) if there has been no such rent increase, since the day the rental unit was rented for the first time.

aux termes de l'alinéa (5) b), la présente loi, dans son ensemble, continue de s'appliquer à tous les locataires subséquents de ce logement locatif.

Date

(7) La date fixée dans l'avis visé au paragraphe (5) est la date qui tombe cinq ans après que le premier logement locatif de l'ensemble d'habitation est loué pour la première fois.

Logement subventionné

(8) La présente loi s'applique à un logement locatif si les conditions suivantes sont réunies :

a) le locataire du logement locatif paie un montant indexé sur le revenu pour ce logement, grâce au financement fourni par le gouvernement du Canada ou de l'Ontario, une municipalité ou une municipalité régionale, de district ou de communauté urbaine, ou par un organisme qui relève de l'un d'eux;

b) le paiement est effectué en vertu de la *Loi nationale sur l'habitation* (Canada), de la loi intitulée *Housing Development Act* («*Loi sur le développement du logement*») ou de la loi intitulée *Ontario Housing Corporation Act* («*Loi sur la Société de logement de l'Ontario*»);

c) le logement locatif n'est pas un logement visé à l'alinéa (2) a).

Toutefois, la présente loi ne s'applique pas à l'augmentation du montant indexé sur le revenu que paie le locataire qui occupe un tel logement locatif.

**4** La présente loi lie la Couronne.

La Loi lie la Couronne

## PARTIE I

### CONTRÔLE DES LOYERS

**5** (1) Nul locateur ne doit demander pour un logement locatif un loyer qui dépasse le loyer maximal pour ce logement locatif.

Montant supérieur au loyer maximal interdit

(2) Nul locateur ne peut demander pour un logement locatif un loyer qui dépasse le montant permis en vertu de la présente loi ou d'une ordonnance rendue en vertu de la présente loi.

Montant supérieur au montant ordonné interdit

**6** Le locateur ne peut augmenter le loyer demandé pour un logement locatif à moins qu'une période d'au moins douze mois ne se soit écoulée :

Augmentation permise

a) depuis la date de la dernière augmentation de loyer de ce logement locatif;

b) s'il n'y a pas eu d'augmentation de loyer, depuis le jour où ce logement locatif a été loué pour la première fois.

## NOTICE OF RENT INCREASE

Notice of  
rent increase

7.—(1) A landlord shall not increase the rent charged for a rental unit without first giving the tenant at least ninety days notice of the landlord's intention to do so.

Idem

(2) The notice shall be in the prescribed form and shall set out the landlord's intention to increase the rent and the amount of the intended increase.

Increase void  
without  
notice

(3) An increase in rent is void if the landlord has not given the notice required by this section.

Notice  
unnecessary  
for new  
tenant

(4) Subsections (1), (2) and (3) do not apply to a rent increase that takes effect when a new tenant first occupies a rental unit under a new tenancy agreement.

Deemed  
compliance

(5) A notice of rent increase given in compliance with this Act, the *Residential Rent Regulation Act, 1986* or the *Residential Tenancies Act* shall be deemed to be and always to have been sufficient notice for the purposes of section 123 and subsection 129 (1) of the *Landlord and Tenant Act*.

If tenant  
fails to give  
notice

8. If a tenant who has been given notice of an intended rent increase under section 7 fails to give the landlord proper notice of termination under the *Landlord and Tenant Act*, the tenant shall be deemed to have accepted whatever rent increase would be allowed under this Act after the landlord and the tenant have exercised their rights under this Act.

Notice to  
new tenant

9.—(1) Before entering into a tenancy agreement with a new tenant, the landlord shall give the new tenant a notice in writing setting out the maximum rent for the rental unit.

Idem

(2) The notice shall also inform the new tenant of the most recent notice of rent increase given, any pending application made by the landlord under this Act or the *Residential Rent Regulation Act, 1986*, any current order or any notice of carry forward that affects the rental unit and any appeal that is pending from the order.

If tenant not  
informed of  
maximum  
rent

(3) If the landlord fails to give the new tenant the notice required under this section, the landlord shall not increase the actual rent charged to the tenant by more than the guideline unless twenty-four months have elapsed since the new tenant first occupied the rental unit.

## AVIS D'AUGMENTATION DE LOYER

7 (1) Le locateur ne doit pas augmenter le loyer d'un logement locatif sans d'abord donner au locataire un avis d'au moins quatre-vingt-dix jours l'informant de son intention.

Avis d'aug-  
mentation de  
loyer

(2) L'avis est rédigé selon la formule prescrite et fait part de l'intention du locateur d'augmenter le loyer et du montant de l'augmentation proposée.

Idem

(3) L'augmentation de loyer est nulle si le locateur n'a pas donné l'avis exigé au présent article.

Nullité de  
l'augmenta-  
tion sans avis

(4) Les paragraphes (1), (2) et (3) ne s'appliquent pas à une augmentation de loyer qui entre en vigueur lorsqu'un nouveau locataire commence à occuper le logement locatif en vertu d'un nouveau bail.

Avis non  
obligatoire  
pour les nou-  
veaux locatai-  
res

(5) L'avis d'augmentation de loyer donné conformément à la présente loi, à la *Loi de 1986 sur la réglementation des loyers d'habitation* ou à la loi intitulée *Residential Tenancies Act* est réputé être et avoir toujours été un avis suffisant pour l'application de l'article 123 et du paragraphe 129 (1) de la loi intitulée *Landlord and Tenant Act* («*Loi sur la location immobilière*»).

Avis réputé  
conforme

8 Le locataire qui a reçu un avis d'augmentation de loyer proposée aux termes de l'article 7 et qui ne donne pas au locateur l'avis de résiliation prévu par la *Loi sur la location immobilière* est réputé avoir accepté toute augmentation de loyer qui serait permise par la présente loi après que le locateur et le locataire ont exercé leurs droits en vertu de la présente loi.

Défaut d'avis  
de résiliation

9 (1) Avant de conclure un bail avec un nouveau locataire, le locateur donne au nouveau locataire un avis écrit l'informant du loyer maximal du logement locatif.

Avis au nou-  
veau locataire

(2) L'avis informe également le nouveau locataire du dernier avis d'augmentation de loyer qui a été donné, des requêtes ou demandes en cours présentées par le locateur en vertu de la présente loi ou de la *Loi de 1986 sur la réglementation des loyers d'habitation*, de tout avis de report qui vise le logement locatif, de tout arrêté, ordre ou ordonnance en vigueur qui vise le logement locatif et de tout appel de ceux-ci qui est en cours.

Idem

(3) S'il omet de donner au nouveau locataire l'avis exigé aux termes du présent article, le locateur ne peut augmenter le loyer réel demandé au locataire d'un pourcentage supérieur au taux légal, à moins qu'une période de vingt-quatre mois ne se soit écoulée depuis que le nouveau locataire a commencé à occuper le logement locatif.

Cas où le  
locataire n'est  
pas avisé du  
loyer maximal



## MAXIMUM RENT

Maximum  
rent

**10.**—(1) Subject to subsections (3) and (5), the maximum rent for a rental unit on a given date is the sum of,

- (a) the maximum rent for that rental unit on the initial rent date, as determined under subsection (2); and
- (b) all permissible increases or decreases which could have been added to it or subtracted from it under this Act, the *Residential Rent Regulation Act, 1986* or the *Residential Tenancies Act* during the period from the initial rent date to the given date.

Idem

(2) The maximum rent for a rental unit on the initial rent date for that rental unit, unless otherwise prescribed, is,

- (a) the maximum rent under the *Residential Rent Regulation Act, 1986* if the initial rent date is before the day this section is proclaimed in force and if that Act applied to the rental unit; and
- (b) the rent actually charged for that rental unit on the initial rent date otherwise.

Continuing  
tenant

(3) On the day this section is proclaimed in force, the maximum rent for a rental unit to which subsection 2 (3) of the *Residential Rent Regulation Act, 1986* applied immediately before its repeal shall be deemed to be the greater of,

- (a) the amount of rent that may be charged under the agreement referred to in that subsection on the day this section is proclaimed in force; and
- (b) the maximum rent that would have applied if subsection 2 (3) of that Act had not applied.

Rental unit  
vacant for  
some time

(4) Subsection (5) applies to a rental unit that,

- (a) was rented at any time on or after the 29th day of July, 1975;
- (b) after being so rented was not rented for a period of time; and
- (c) then again becomes rented.

Idem

(5) The maximum rent for a rental unit described in subsection (4) on the date the rental unit again becomes rented shall be the amount the landlord would have been entitled to charge if the unit had been rented during the period it was not rented and the

## LOYER MAXIMAL

Loyer maxi-  
mal

**10** (1) Sous réserve des paragraphes (3) et (5), le loyer maximal d'un logement locatif à une date déterminée correspond à la somme des montants suivants :

- a) le loyer maximal de ce logement locatif à la date du loyer initial, déterminé selon le paragraphe (2);
- b) toutes les augmentations ou diminutions permises qui auraient pu être ajoutées au loyer maximal ou soustraites de celui-ci en vertu de la présente loi, de la *Loi de 1986 sur la réglementation des loyers d'habitation* ou de la loi intitulée *Residential Tenancies Act* pendant la période allant de la date du loyer initial à la date déterminée.

Idem

(2) Sauf s'il en est prescrit autrement, le loyer maximal d'un logement locatif à la date du loyer initial de ce logement locatif correspond au montant suivant :

- a) le loyer maximal prévu par la *Loi de 1986 sur la réglementation des loyers d'habitation*, si la date du loyer initial est antérieure au jour où le présent article est proclamé en vigueur et que cette loi s'appliquait au logement locatif;
- b) le loyer réellement demandé pour ce logement locatif à la date du loyer initial, dans les autres cas.

Même loca-  
taire

(3) Le jour où le présent article est proclamé en vigueur, le loyer maximal d'un logement locatif auquel le paragraphe 2 (3) de la *Loi de 1986 sur la réglementation des loyers d'habitation* s'appliquait immédiatement avant son abrogation est réputé le plus élevé des montants suivants :

- a) le loyer qui peut être demandé aux termes du bail visé à ce paragraphe le jour où le présent article est proclamé en vigueur;
- b) le loyer maximal qui se serait appliqué si le paragraphe 2 (3) de cette loi ne s'était pas appliqué.

(4) Le paragraphe (5) s'applique au logement locatif qui :

Logement  
locatif vacant  
pendant un  
certain temps

- a) a été loué le 29 juillet 1975 ou après cette date;
- b) par la suite, a été vacant pendant un certain temps;
- c) redevient loué.

Idem

(5) Le loyer maximal d'un logement locatif visé au paragraphe (4) est, à la date à laquelle le logement locatif redevient loué, le montant que le locateur aurait eu le droit de demander si le logement avait été loué pendant la période où il était vacant et que le

landlord had given notice or notices of rent increase in the amount permitted without an application under this Act, the *Residential Rent Regulation Act, 1986*, the *Residential Premises Rent Review Act, 1975 (2nd Session)* or Part XI of the *Residential Tenancies Act*.

Maximum  
increase  
without  
application

**11.** No landlord shall increase the rent charged for a rental unit by more than the guideline unless,

- (a) an order has been made in accordance with this Part; or
- (b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

Rent control  
guidelines

**12.—(1)** The Minister shall determine the rent control guidelines in effect for each calendar year as follows:

1. Determine the rent control index taking into account the weights and the three year moving averages of the operating cost categories as set out in the prescribed Table.
2. The part of the guideline allocated to operating costs for a rental unit in a residential complex that has seven or more residential units is equal to one-half of the percentage increase in the rent control index, rounded to the nearest 1/10th of 1 per cent.
3. The part of the guideline allocated to operating costs for a rental unit in a residential complex that has six or fewer residential units is equal to two-thirds of the percentage increase in the rent control index, rounded to the nearest 1/10th of 1 per cent.
4. The part of the guideline allocated to capital expenditures for rental units in all residential complexes is equal to 2 per cent.
5. The guideline for a rental unit is the sum of the part of the guideline allocated to operating costs for that rental unit and the part of the guideline allocated to capital expenditures.

locateur avait donné l'avis ou les avis d'augmentation de loyer du montant permis sans qu'il soit nécessaire de présenter une demande ou une requête prévue par la présente loi, la *Loi de 1986 sur la réglementation des loyers d'habitation*, la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* ou la partie XI de la loi intitulée *Residential Tenancies Act*.

**11** Nul locateur ne peut augmenter le loyer demandé pour un logement locatif d'un pourcentage supérieur au taux légal, sauf si, selon le cas :

- a) une ordonnance a été rendue conformément à la présente partie;
- b) le loyer demandé après que l'augmentation est effectuée ne dépasse pas le loyer maximal à la date à laquelle l'augmentation de loyer prend effet.

Augmentation  
maximale  
sans requête

**12 (1)** Le ministre établit les taux légaux en vigueur pour chaque année civile de la façon suivante :

Taux légaux

1. Il détermine l'indice du contrôle des loyers en tenant compte de la pondération et de la moyenne mobile de trois ans des catégories de frais d'exploitation énoncées dans le barème prescrit.
2. La partie du taux légal se rapportant aux frais d'exploitation à l'égard d'un logement locatif d'un ensemble d'habitation qui comprend sept unités de logement ou plus est égale à la moitié du pourcentage d'augmentation de l'indice du contrôle des loyers, portée au dixième de pour cent le plus près.
3. La partie du taux légal se rapportant aux frais d'exploitation à l'égard d'un logement locatif d'un ensemble d'habitation qui comprend six unités de logement ou moins est égale aux deux tiers du pourcentage d'augmentation de l'indice du contrôle des loyers, portée au dixième de pour cent le plus près.
4. La partie du taux légal se rapportant aux dépenses en immobilisations à l'égard des logements locatifs de tous les ensembles d'habitation est égale à 2 pour cent.
5. Le taux légal à l'égard d'un logement locatif est la somme de la partie du taux légal se rapportant aux frais d'exploitation à l'égard de ce logement locatif et de la partie du taux légal se rapportant aux dépenses en immobilisations.

Publication  
of guidelines

(2) The Minister shall publish the rent control guidelines for each year in *The Ontario Gazette* not later than the 31st day of August of the preceding year.

(2) Le ministre publie les taux légaux pour chaque année dans la *Gazette de l'Ontario* au plus tard le 31 août de l'année précédente.

Publication  
des taux  
légaux



Guideline  
for 1992

(3) Despite subsection (2), the rent control guideline for all rental units for 1992 is the Residential Complex Cost Index for that year as published by the Minister under subsection 71 (2) of the *Residential Rent Regulation Act, 1986*.

#### APPLICATION FOR INCREASE ABOVE GUIDELINE

Application  
for increase  
above guide-  
line

**13.**—(1) A landlord may apply to a Chief Rent Officer for an order increasing the maximum rent for any or all of the rental units in a residential complex by more than the guideline.

Grounds for  
application

(2) An application under this section may be based on any one or more of the grounds set out in sections 14 to 18.

Idem

(3) A rent officer shall not consider a matter set out in section 14, 15, 16, 17 or 18 if it is not specifically set out as a ground in the application.

When appli-  
cation made

(4) An application under this section shall be made at least ninety days before the effective date of the first intended rent increase referred to in the application.

Idem

(5) No application shall be made under this section seeking to increase the maximum rent for a rental unit unless twelve months have elapsed since the last rent increase.

All units  
considered

(6) In an application under this section, the rent officer shall determine the maximum rent and the date the maximum rent takes effect for all of the rental units during the twelve-month period following the effective date of the first rent increase applied for, even if those units are not the subject of tenancy agreements at the time of the application.

Matters to  
be consid-  
ered

(7) Before making an order on an application under this section, the rent officer shall consider whether the amount of the increase should be limited or the maximum rent reduced because of any of the matters set out in section 25 or 26 and,

- (a) if the landlord has based the application on section 14, the rent officer shall consider whether the amount of the increase should be limited or the maximum rent reduced because of any of the matters set out in section 24; or
- (b) if the landlord has not based the application on section 14, the rent officer may consider whether the amount of

(3) Malgré le paragraphe (2), le taux légal pour tous les logements locatifs pour 1992 correspond à l'indice des frais des ensembles d'habitation pour cette année, tel qu'il est publié par le ministre aux termes du paragraphe 71 (2) de la *Loi de 1986 sur la réglementation des loyers d'habitation*.

Taux légal  
pour 1992

#### REQUÊTE EN VUE D'OBTENIR UNE AUGMENTATION SUPÉRIEURE AU TAUX LÉGAL

**13** (1) Le locateur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance augmentant d'un pourcentage supérieur au taux légal le loyer maximal pour tout ou partie des logements locatifs d'un ensemble d'habitation.

Requête en  
vue d'obtenir  
une augmen-  
tation supé-  
rieure au taux  
légal

(2) Une requête présentée en vertu du présent article peut être fondée sur un ou plusieurs des motifs énoncés aux articles 14 à 18.

Motifs de la  
requête

(3) L'agent des loyers ne peut pas tenir compte d'une question énoncée à l'article 14, 15, 16, 17 ou 18 si elle n'est pas expressément invoquée comme motif dans la requête.

Idem

(4) Une requête prévue au présent article est présentée au moins quatre-vingt-dix jours avant la date d'entrée en vigueur de la première augmentation de loyer proposée qui est mentionnée dans la requête.

Délai de  
présentation  
de la requête

(5) Aucune requête ne doit être présentée en vertu du présent article dans le but d'augmenter le loyer maximal d'un logement locatif à moins que douze mois ne se soient écoulés depuis la dernière augmentation de loyer.

Idem

(6) Dans le cadre d'une requête présentée en vertu du présent article, l'agent des loyers fixe le loyer maximal et la date à laquelle il prend effet pour tous les logements locatifs pendant la période de douze mois qui suit la date de prise d'effet de la première augmentation de loyer qui fait l'objet de la requête, même si ces logements ne font pas l'objet de baux au moment de la requête.

Prise en con-  
sidération de  
tous les loge-  
ments

(7) Avant de rendre une ordonnance par suite d'une requête présentée en vertu du présent article, l'agent des loyers tient compte de la question de savoir si le montant de l'augmentation devrait être limité ou le loyer maximal réduit en raison de toute question énoncée aux articles 25 ou 26 et :

Questions  
dont il doit  
être tenu  
compte

- a) si le locateur a fondé sa requête sur l'article 14, l'agent des loyers tient compte de la question de savoir si le montant de l'augmentation devrait être limité ou le loyer maximal réduit en raison de toute question énoncée à l'article 24;
- b) si le locateur n'a pas fondé sa requête sur l'article 14, l'agent des loyers peut tenir compte de la question de savoir

the increase should be limited or the maximum rent reduced because of any of the matters set out in section 24.

Failure to file information

(8) A rent officer shall not make an order that increases the maximum rent for a rental unit in a residential complex if the landlord is required to file a statement under section 96, 99 or 100 and the landlord has not filed the statement as required.

Extraordinary operating costs

**14.**—(1) The landlord may base an application on an extraordinary increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Where increase is extraordinary

(2) An increase in operating costs for municipal taxes, hydro, water or heating for the whole residential complex is extraordinary if it is at least 50 per cent more than the amount of the corresponding operating cost category recognized in the Table referred to in subsection 12 (1) for that item.

Eligible capital expenditure

**15.**—(1) The landlord may base an application on eligible capital expenditures that the landlord has incurred respecting the whole residential complex or one or more rental units in it.

When capital expenditure is eligible

(2) Subject to subsection (3), a capital expenditure is eligible if,

- (a) it is necessary to protect or restore the physical integrity of the residential complex or a rental unit in it;
- (b) it is necessary to comply with municipal or provincial standards to protect the health or safety of persons or to protect the environment;
- (c) it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air-conditioning system;
- (d) it provides access for persons with disabilities; or
- (e) it increases energy conservation.

When capital expenditure not eligible

- (3) A capital expenditure is not eligible if,
- (a) it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it; or

si le montant de l'augmentation devrait être limité ou le loyer maximal réduit en raison de toute question énoncée à l'article 24.

(8) L'agent des loyers ne peut pas rendre d'ordonnance qui augmente le loyer maximal d'un logement locatif d'un ensemble d'habitation si le locateur est tenu de déposer une déclaration aux termes de l'article 96, 99 ou 100 et que le locateur n'a pas déposé la déclaration comme il était tenu de le faire.

**14** (1) Le locateur peut fonder sa requête sur une augmentation extraordinaire des frais d'exploitation pour tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

(2) Une augmentation des frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage pour tout l'ensemble d'habitation est extraordinaire si elle dépasse d'au moins 50 pour cent le montant de la catégorie de frais d'exploitation correspondante reconnue pour cet élément dans le barème mentionné au paragraphe 12 (1).

**15** (1) Le locateur peut fonder sa requête sur des dépenses en immobilisations admissibles qu'il a engagées à l'égard de tout l'ensemble d'habitation ou d'un ou de plusieurs logements locatifs qui s'y trouvent.

(2) Sous réserve du paragraphe (3), une dépense en immobilisations est admissible si, selon le cas :

- a) elle est nécessaire pour protéger ou rétablir l'intégrité physique de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;
- b) elle est nécessaire pour observer les normes municipales ou provinciales établies afin de protéger la santé ou la sécurité des personnes, ou afin de protéger l'environnement;
- c) elle est nécessaire pour continuer à fournir un système de chauffage, une installation mécanique ou électrique, ou une installation de plomberie, de ventilation ou de climatisation;
- d) elle a pour objet de permettre l'accès aux personnes qui ont un handicap;
- e) elle a pour objet d'augmenter les économies d'énergie.

(3) Une dépense en immobilisations n'est pas admissible si, selon le cas :

- a) elle est devenue nécessaire en raison de négligence dans l'entretien de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;

Défaut de déclarer des renseignements

Frais d'exploitation extraordinaires

Augmentation extraordinaire

Dépense en immobilisations admissible

Dépense en immobilisations admissible

Dépense en immobilisations non admissible



(b) a system or thing that is replaced does not require replacement.

b) un système, une installation ou une chose qui est remplacé n'a pas besoin de l'être.

If advance determination

(4) If there is an advance determination under section 29 respecting a capital expenditure to which this section applies and the work done or thing purchased is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

(4) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'une dépense en immobilisations à laquelle s'applique le présent article et que les travaux effectués ou la chose achetée sont sensiblement les mêmes que ceux prévus dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision anticipée

Transition, capital expenditure

**16.**—(1) Subject to subsection (2), the landlord may base an application on a capital expenditure that the landlord has carried out to the whole residential complex or a rental unit in it if,

**16** (1) Sous réserve du paragraphe (2), le locateur peut fonder sa requête sur une dépense en immobilisations qu'il a engagée à l'égard de tout l'ensemble d'habitation ou d'un logement locatif qui s'y trouve si :

Disposition transitoire concernant les dépenses en immobilisations

(a) the work in relation to the capital expenditure was substantially completed on or after the 1st day of January, 1990 and before the 6th day of June, 1991; and

a) d'une part, les travaux en rapport avec la dépense en immobilisations ont été achevés, en grande partie, le 1<sup>er</sup> janvier 1990 ou après cette date mais avant le 6 juin 1991;

(b) the application is made before the day that is six months after this section is proclaimed in force.

b) d'autre part, la requête est présentée avant le jour qui tombe six mois après le jour où le présent article est proclamé en vigueur.

Exception

(2) The rent officer shall not consider a capital expenditure under this section if it became necessary as a result of neglect in maintaining the residential complex or a rental unit in it.

(2) L'agent des loyers ne peut pas tenir compte d'une dépense en immobilisations visée au présent article si elle est devenue nécessaire en raison de négligence dans l'entretien de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve.

Exception

Capital expenditure re rental unit, on consent

**17.**—(1) The landlord may base an application on a specified capital expenditure that the landlord has carried out to a rental unit if the tenant of the rental unit consents in the prescribed form to the application in respect of this ground after being informed in writing by the landlord of the particulars applied for.

**17** (1) Le locateur peut fonder sa requête sur une dépense en immobilisations précisée qu'il a engagée à l'égard d'un logement locatif si le locataire du logement locatif consent, selon la formule prescrite, à la requête à l'égard de ce motif, après avoir été informé par écrit par le locateur des éléments faisant l'objet de la requête.

Dépense en immobilisations relative à un logement locatif, sur consentement

If advance determination

(2) If there is an advance determination under section 29 respecting a capital expenditure to which this section applies and the work done or thing purchased is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

(2) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'une dépense en immobilisations à laquelle s'applique le présent article et que les travaux effectués ou la chose achetée sont sensiblement les mêmes que ceux prévus dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision anticipée

Idem

(3) If there is a finding in the advance determination that the tenant of the rental unit consented to the application for the advance determination, the tenant is not required to consent to the application under this section even if there is a different tenant at the time of the application under this section.

(3) S'il est conclu dans la décision anticipée que le locataire du logement locatif a consenti à la requête en vue d'obtenir une décision anticipée, le locataire n'est pas tenu de consentir à la requête visée au présent article, même si le locataire n'est plus le même au moment où la requête est présentée en vertu du présent article.

Idem

New or  
additional  
services

**18.**—(1) The landlord may base an application on the cost of new or additional services for a rental unit that the landlord is providing if the tenant of the rental unit consents in the prescribed form to the application in respect of this ground after being informed in writing by the landlord of the particulars applied for.

If advance  
determina-  
tion

(2) If there is an advance determination under section 29 respecting a service to which this section applies and that service is substantially the same as that anticipated in the advance determination, the rent officer shall consider any difference between the actual amount expended and the amount approved in the advance determination according to the prescribed rules.

Idem

(3) If there is a finding in the advance determination that the tenant of the rental unit consented to the application for the advance determination, the tenant is not required to consent to the application under this section even if there is a different tenant at the time of the application under this section.

Rent charge-  
able before  
order

**19.** If an application is made under section 13 and the landlord has given a notice of intended rent increase as required, until an order setting the maximum rent for the rental unit takes effect, the landlord may charge and collect a rent up to the lesser of the amount that would be charged if the intended rent increase specified in the notice were applied and the amount that would be charged if the maximum rent were increased by the guideline.

Findings

**20.**—(1) Before making an order on an application under section 13, the rent officer shall make findings in accordance with the prescribed rules and for the prescribed periods,

- (a) to determine what guideline is to be applied to the rental unit;
- (b) for each ground on which the landlord bases the application, to determine whether an increase of the maximum rent is justified and in what amount;
- (c) for each matter under sections 24 to 26 that the rent officer considers, to determine whether a decrease of the increase justified under clause (b) or a reduction of the maximum rent is justified and in what amount;
- (d) to determine the amount to be carried forward from a previous order under subsection 21 (5) if the effective date

**18** (1) Le locateur peut fonder sa requête sur le coût de nouveaux services ou de services supplémentaires qu'il fournit pour un logement locatif si le locataire du logement locatif consent, selon la formule prescrite, à la requête à l'égard de ce motif, après avoir été informé par écrit par le locateur des éléments faisant l'objet de la requête.

Nouveaux  
services ou  
services sup-  
plémentaires

(2) Si une décision anticipée est rendue aux termes de l'article 29 à l'égard d'un service auquel s'applique le présent article et que ce service est sensiblement le même que celui prévu dans la décision anticipée, l'agent des loyers tient compte de toute différence entre le montant réellement dépensé et le montant approuvé dans la décision anticipée conformément aux règles prescrites.

Décision anti-  
cipée

(3) S'il est conclu dans la décision anticipée que le locataire du logement locatif a consenti à la requête en vue d'obtenir une décision anticipée, le locataire n'est pas tenu de consentir à la requête visée au présent article, même si le locataire n'est plus le même au moment où la requête est présentée en vertu du présent article.

Idem

**19** Si une requête est présentée en vertu de l'article 13 et que le locateur a donné un avis d'augmentation de loyer proposée tel qu'il est exigé, le locateur peut demander et percevoir, jusqu'à ce qu'entre en vigueur une ordonnance fixant le loyer maximal pour le logement locatif, un loyer jusqu'à concurrence du montant qui serait demandé si l'augmentation de loyer proposée qui est précisée dans l'avis avait été effectuée ou jusqu'à concurrence du montant qui serait demandé si le loyer maximal était augmenté du taux légal, selon le moindre de ces montants.

Loyer pou-  
vant être  
demandé  
avant l'ordon-  
nance

**20** (1) Avant de rendre une ordonnance par suite d'une requête présentée en vertu de l'article 13, l'agent des loyers émet des conclusions, conformément aux règles prescrites et pour les périodes prescrites :

Conclusions

- a) pour déterminer quel taux légal doit être appliqué au logement locatif;
- b) à l'égard de chaque motif sur lequel le locateur fonde sa requête, pour décider si une augmentation du loyer maximal est justifiée et en fixer le montant;
- c) à l'égard de chaque question visée aux articles 24 à 26 dont l'agent des loyers tient compte, pour décider si une diminution de l'augmentation justifiée aux termes de l'alinéa b) ou une réduction du loyer maximal est justifiée et en fixer le montant;
- d) pour déterminer le montant à reporter d'une ordonnance antérieure visée au paragraphe 21 (5) si la date de prise



of the first rent increase under the previous order is twelve months before the effective date of the first intended rent increase under the application;

(e) to determine the amount to be carried forward from a previous order under clause 21 (5) (b) if,

(i) the effective date of the first rent increase under the previous order is twenty-four months before the effective date of the first intended rent increase under the application, and

(ii) an amount has been carried forward from the previous order in an order under this section or in a notice of carry forward; and

(f) to determine the maximum rent for each rental unit and the date on which that maximum rent takes effect.

Guideline

(2) For the purposes of clause (1) (a), the guideline to be applied to the rental units is the guideline as of the first intended rent increase in the application.

Reduction of guideline

(3) If a capital expenditure is claimed and allowed for the whole residential complex or an amount to be carried forward is allowed for the whole residential complex, the amount allowed in respect of the guideline for all of the rental units in the residential complex shall be reduced by 2 per cent.

Idem

(4) If a capital expenditure is claimed and allowed for a rental unit or an amount to be carried forward is allowed for a rental unit and if subsection (3) does not apply, the amount allowed in respect of the guideline for that rental unit shall be reduced by 2 per cent.

Capital expenditures

(5) The rent officer shall make findings with respect to the following matters and shall calculate the amount allowed for a capital expenditure according to the prescribed rules:

1. Interest on the expenditure at the prescribed rates, regardless of whether the expenditure is financed by borrowing, by the landlord's own funds or by both.
2. The value of the landlord's own labour, if any, in carrying out the work involved in the capital expenditure.

d'effet de la première augmentation de loyer prévue dans l'ordonnance antérieure tombe douze mois avant la date de prise d'effet de la première augmentation de loyer proposée dans la requête;

e) pour déterminer le montant à reporter d'une ordonnance antérieure visée à l'alinéa 21 (5) b) si :

(i) d'une part, la date de prise d'effet de la première augmentation de loyer prévue dans l'ordonnance antérieure tombe vingt-quatre mois avant la date de prise d'effet de la première augmentation de loyer proposée dans la requête,

(ii) d'autre part, un montant a été reporté de l'ordonnance antérieure dans une ordonnance rendue en vertu du présent article ou dans un avis de report;

f) pour déterminer le loyer maximal de chaque logement locatif et la date à laquelle ce loyer maximal prend effet.

(2) Pour l'application de l'alinéa (1) a), le taux légal applicable aux logements locatifs est le taux légal à la date de la première augmentation de loyer proposée dans la requête.

Taux légal

(3) Si une dépense en immobilisations est déclarée et reconnue à l'égard de tout l'ensemble d'habitation ou qu'un montant à reporter est reconnu à l'égard de tout l'ensemble d'habitation, le montant reconnu à l'égard du taux légal pour tous les logements locatifs de l'ensemble d'habitation est réduit de 2 pour cent.

Réduction du taux légal

(4) Si une dépense en immobilisations est déclarée et reconnue à l'égard d'un logement locatif ou qu'un montant à reporter est reconnu à l'égard d'un logement locatif et que le paragraphe (3) ne s'applique pas, le montant reconnu à l'égard du taux légal pour ce logement locatif est réduit de 2 pour cent.

Idem

(5) L'agent des loyers émet des conclusions à l'égard des questions suivantes et calcule le montant reconnu d'une dépense en immobilisations conformément aux règles prescrites :

Dépenses en immobilisations

1. L'intérêt sur la dépense aux taux prescrits, qu'elle ait été financée au moyen d'un emprunt ou au moyen des fonds mêmes du locateur, ou au moyen d'une combinaison des deux.
2. La valeur du travail du locateur, le cas échéant, dans l'exécution des travaux relatifs à la dépense en immobilisations.

3. The prescribed useful life of the work done or the thing purchased.

Reduction  
for capital  
expenditure  
previously  
allowed

(6) If a rent officer intends to permit an amount for a capital expenditure for the replacement of an item that was allowed as a capital expenditure in a previous order made under this Act or a predecessor of it and if the capital expenditure allowed in the previous order was incurred on or after the 1st day of August, 1985, the rent officer shall reduce the amount to be permitted for the capital expenditure by the amount allowed in respect of the capital expenditure in the previous order.

Order

**21.—(1)** On an application under section 13, a rent officer shall order the amount of maximum rent for each rental unit in the residential complex and the date on which that maximum rent takes effect.

Cap on  
maximum  
rent

(2) The rent officer shall not order a maximum rent in an amount that increases the previous maximum rent by more than the sum of the guideline and 3 per cent.

Decrease  
permitted

(3) The rent officer may order maximum rent in an amount that is less than the previous maximum rent.

No increase  
above appli-  
cation

(4) The rent officer shall not order a maximum rent for a rental unit in an amount that is greater than that proposed for the rental unit on a landlord's application.

Carry  
forward

(5) If the rent officer's findings respecting a rental unit would justify an increase of more than the amount allowed under subsection (2) or (4) and the excess includes an amount determined to be justified for capital expenditures, the rent officer may provide in the order that the excess in respect of capital expenditures may be carried forward,

- (a) for a period of twelve months from the effective date of the first rent increase in the residential complex under the order if the residential complex has seven or more residential units and an order under this subsection has not previously been made respecting that excess; or

- (b) for a period of twenty-four months from the effective date of the first rent increase in the residential complex

3. La vie utile prescrite des travaux effectués ou de la chose achetée.

(6) Si un agent des loyers a l'intention de permettre un montant à l'égard d'une dépense en immobilisations pour le remplacement d'un élément reconnu au titre des dépenses en immobilisations dans un arrêté pris, un ordre donné ou une ordonnance rendue antérieurement en vertu de la présente loi ou en vertu d'une loi que celle-ci remplace, et si la dépense en immobilisations reconnue dans l'arrêté, l'ordre ou l'ordonnance antérieur a été engagée le 1<sup>er</sup> août 1985 ou après cette date, l'agent des loyers soustrait du montant qui sera permis à l'égard de la dépense en immobilisations le montant reconnu à l'égard de la dépense en immobilisations dans l'arrêté, l'ordre ou l'ordonnance antérieur.

Réduction  
pour les  
dépenses en  
immobilisa-  
tions recon-  
nues  
antérieure-  
ment

Ordonnance

**21** (1) Par suite d'une requête présentée en vertu de l'article 13, l'agent des loyers fixe, par voie d'ordonnance, le loyer maximal de chaque logement locatif de l'ensemble d'habitation et la date à laquelle le loyer maximal prend effet.

(2) L'agent des loyers ne peut pas fixer, par voie d'ordonnance, de loyer maximal qui fasse augmenter le loyer maximal précédent d'un pourcentage supérieur à la somme du taux légal plus 3 pour cent.

Loyer maxi-  
mal plafonné

(3) L'agent des loyers peut fixer, par voie d'ordonnance, un loyer maximal inférieur au loyer maximal précédent.

Réduction  
permise

(4) L'agent des loyers ne peut pas fixer, par voie d'ordonnance, de loyer maximal à l'égard d'un logement locatif qui soit supérieur à celui proposé pour le logement locatif dans la requête du locateur.

Augmentation  
supérieure à  
celle propo-  
sée interdite

(5) Si les conclusions de l'agent des loyers au sujet d'un logement locatif justifiaient une augmentation supérieure au montant reconnu aux termes du paragraphe (2) ou (4) et que l'excédent comprend un montant qui a été jugé justifié à l'égard de dépenses en immobilisations, l'agent des loyers peut prévoir dans l'ordonnance que l'excédent à l'égard des dépenses en immobilisations peut être reporté :

Report

- a) d'une période de douze mois à partir de la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation prévue dans l'ordonnance si l'ensemble d'habitation comprend sept unités de logement ou plus et qu'une ordonnance à l'égard de cet excédent n'a pas été rendue antérieurement en vertu du présent paragraphe;

- b) d'une période de vingt-quatre mois à partir de la date de prise d'effet de la première augmentation de loyer tou-



under the order if the residential complex has six or fewer residential units and an order under this subsection has not previously been made respecting that excess.

Order for  
payment of  
money

(6) The rent officer may order the landlord or tenant to pay to the other any sum of money that is owed to the other as a result of the rent officer's order.

Payment of  
order by  
instalments

(7) The rent officer may provide in an order made three months or more after the effective date of the first rent increase in the residential complex that if a tenant owes any sum of money to the landlord as a result of the order, the tenant may pay the landlord the amount owing either in twelve equal monthly instalments or in a lump sum.

Idem

(8) If the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.

#### CAPITAL CARRY FORWARD WITHOUT APPLICATION

Increase by  
amount  
carried  
forward

**22.—(1)** A landlord may increase the maximum rent for a rental unit by more than the guideline in accordance with this section if a notice of carry forward issued under this section authorizes the landlord to do so.

Notice of  
intent

(2) A landlord who intends to increase the maximum rent for a rental unit in accordance with this section shall file with a Chief Rent Officer a notice of intent at least 120 days before the day that is,

- (a) twelve months after the effective date of the first rent increase set out in the order that permitted the carry forward; or
- (b) twenty-four months after the effective date of the first rent increase set out in the order that permitted the carry forward if there are six or fewer rental units in the residential complex and,
  - (i) an order under section 21 based on a finding under clause 20 (1) (d) has previously been made respecting the amount to be carried forward, or

chant l'ensemble d'habitation prévue dans l'ordonnance si l'ensemble d'habitation comprend six unités de logement ou moins et qu'une ordonnance à l'égard de cet excédent n'a pas été rendue antérieurement en vertu du présent paragraphe.

Ordonnance  
de paiement

(6) L'agent des loyers peut ordonner que le locateur ou le locataire verse à l'autre toute somme d'argent qu'il lui doit par suite de l'ordonnance rendue par l'agent des loyers.

(7) Dans une ordonnance rendue trois mois ou plus après la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation, l'agent des loyers peut prévoir que si le locataire doit une somme d'argent au locateur par suite de l'ordonnance, le locataire peut payer la somme due au locateur, soit en douze versements mensuels d'un montant égal, soit en une somme globale.

Paiement fait  
par verse-  
ments

(8) Si l'ordonnance permet au locataire de payer le montant dû par versements, le locataire peut le faire même si la location est terminée.

Idem

#### REPORT D'UNE DÉPENSE EN IMMOBILISATIONS SANS REQUÊTE

**22 (1)** Le locateur peut augmenter le loyer maximal d'un logement locatif d'un pourcentage supérieur au taux légal conformément au présent article si un avis de report délivré aux termes du présent article autorise le locateur à le faire.

Augmentation  
correspondant  
au montant  
du report

(2) Le locateur qui a l'intention d'augmenter le loyer maximal d'un logement locatif conformément au présent article dépose auprès d'un agent principal des loyers un avis d'intention au moins 120 jours avant le jour qui tombe, selon le cas :

Avis  
d'intention

- a) douze mois après la date de prise d'effet de la première augmentation de loyer énoncée dans l'ordonnance qui a permis le report;
- b) vingt-quatre mois après la date de prise d'effet de la première augmentation de loyer énoncée dans l'ordonnance qui a permis le report si l'ensemble d'habitation comprend six logements locatifs ou moins et que, selon le cas :
  - (i) une ordonnance à l'égard du montant à reporter, fondée sur une conclusion émise en vertu de l'alinéa 20 (1) d), a été rendue antérieurement en vertu de l'article 21,

- (ii) a notice of carry forward under this section has previously been issued respecting that amount.

- (ii) un avis de report à l'égard de ce montant a été délivré antérieurement aux termes du présent article.

## Findings

(3) A rent officer shall determine in accordance with the prescribed rules for each rental unit included in the landlord's notice of intent,

(3) L'agent des loyers détermine, conformément aux règles prescrites, pour chaque logement locatif inclus dans l'avis d'intention du locateur :

## Conclusions

- (a) what guideline is to be applied to the rental unit;
- (b) the amount that is justified by the carry forward; and
- (c) the amount of maximum rent for each rental unit and the date that maximum rent takes effect.

- a) le taux légal qui doit être appliqué au logement locatif;
- b) le montant qui est justifié par le report;
- c) le montant du loyer maximal de chaque logement locatif et la date à laquelle ce loyer maximal prend effet.

## Guideline

(4) For the purposes of clause (3) (a), the guideline to be applied to the rental units is the guideline as of the first or second anniversary, as the case may be, of the effective date of the first rent increase in the residential complex set out in the order permitting the carry forward.

(4) Pour l'application de l'alinéa (3) a), le taux légal applicable aux logements locatifs est le taux légal au premier ou au deuxième anniversaire, selon le cas, de la date de prise d'effet de la première augmentation de loyer touchant l'ensemble d'habitation énoncée dans l'ordonnance permettant le report.

## Taux légal

## Idem

(5) In determining the maximum rent under clause (3) (c), the rent officer shall reduce the amount allowed in respect of the guideline for all of the rental units affected by 2 per cent.

(5) Lorsqu'il détermine le loyer maximal aux termes de l'alinéa (3) c), l'agent des loyers réduit de 2 pour cent le montant reconnu à l'égard du taux légal pour tous les logements locatifs visés.

## Idem

## Cap. on maximum rent

(6) The rent officer shall not determine an amount of maximum rent under subsection (3) that increases the previous maximum rent by more than the sum of the guideline applied under subsection (4) and 3 per cent.

(6) L'agent des loyers ne peut pas fixer de montant du loyer maximal aux termes du paragraphe (3) qui augmente le loyer maximal antérieur d'un pourcentage supérieur à la somme du taux légal applicable aux termes du paragraphe (4) plus 3 pour cent.

## Loyer maximal plafonné

## Notice of carry forward

(7) Subject to subsection (9), after a landlord has filed a notice of intent and a rent officer has made the determinations under subsection (3), the rent officer shall issue a notice of carry forward to the landlord and to the tenants whose rental units are affected by it setting out the maximum rent for each affected rental unit and the date the maximum rent takes effect.

(7) Sous réserve du paragraphe (9), après que le locateur a déposé un avis d'intention et qu'un agent des loyers a rendu les décisions prévues au paragraphe (3), l'agent des loyers délivre un avis de report au locateur et aux locataires dont les logements locatifs sont visés par l'avis, dans lequel sont énoncés le loyer maximal de chaque logement locatif visé et la date à laquelle le loyer maximal prend effet.

## Avis de report

## Exception

(8) If the amount the landlord intends to carry forward for a rental unit under subsection (2) is less than the reduction that would be taken under subsection (5) for that rental unit, the rent increase set out in the notice of carry forward shall be the guideline amount as set out in subsection (4).

(8) Si le montant que le locateur a l'intention de faire reporter à l'égard d'un logement locatif aux termes du paragraphe (2) est inférieur à la réduction qui serait effectuée aux termes du paragraphe (5) pour ce logement locatif, l'augmentation de loyer énoncée dans l'avis de report correspond au montant légal visé au paragraphe (4).

## Exception

## Idem

(9) If the amount the landlord intends to carry forward for each of the rental units under subsection (2) is less than the reduction that would be taken under subsection (5) for that rental unit, the rent officer shall notify the landlord that a notice of carry forward will not be issued respecting any of those rental units and that the landlord may

(9) Si le montant que le locateur a l'intention de faire reporter à l'égard de chacun des logements locatifs aux termes du paragraphe (2) est inférieur à la réduction qui serait effectuée aux termes du paragraphe (5) pour ce logement locatif, l'agent des loyers avise le locateur du fait qu'un avis de report ne sera pas délivré à l'égard de l'un quelconque

## Idem



make an application under section 13 respecting any of them.

No applica-  
tion

(10) A landlord who files a notice of intent in respect of a rental unit shall not make an application under section 13 in respect of that rental unit for the same period unless a rent officer notifies the landlord under subsection (9) that a notice of carry forward will not be issued.

#### APPLICATION TO REDUCE RENT

Application  
to reduce  
rent

**23.—**(1) A tenant of a rental unit in a residential complex may apply to a Chief Rent Officer for an order reducing the rent charged for the rental unit.

Idem

(2) An application under this section may be based on any one or more of the grounds set out in sections 24 to 26.

Parties to be  
added

(3) If a rent officer believes that the rents of one or more rental units in the residential complex would be directly affected by the issues raised in an application under this section, the rent officer shall add the tenants of those rental units as parties to the application.

All units  
considered

(4) In the application, the rent officer determining the matter shall determine the rents that may be charged or the maximum rent for the rental units referred to in subsections (1) and (3).

Who may  
make appli-  
cation

(5) A person may make an application under this section as a tenant only if the person was a tenant at the time the conduct giving rise to the application occurred.

Operating  
costs

**24.—**(1) The tenant may base an application on an extraordinary decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex.

Where  
decrease is  
extraordinary

(2) A decrease in operating costs for municipal taxes, hydro, water or heating for the whole residential complex is extraordinary if it is at least 50 per cent less than the amount of the corresponding operating cost category recognized in the Table referred to in subsection 12 (1) for that item.

Inadequate  
maintenance

**25.** The tenant may base an application on whether the standard of maintenance or repair of the rental unit or of the whole residential complex is inadequate.

Reduced  
services

**26.** The tenant may base an application on any discontinuance or reduction in the

de ces logements locatifs et que le locateur peut présenter une requête en vertu de l'article 13 à l'égard de l'un quelconque de ces logements.

Aucune  
requête

(10) Le locateur qui dépose un avis d'intention à l'égard d'un logement locatif ne peut présenter de requête en vertu de l'article 13 à l'égard de ce logement locatif relativement à la même période, à moins qu'un agent des loyers n'avise le locateur en vertu du paragraphe (9) du fait qu'un avis de report ne sera pas délivré.

#### REQUÊTE VISANT À RÉDUIRE LE LOYER

**23** (1) Le locataire d'un logement locatif d'un ensemble d'habitation peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance réduisant le loyer demandé pour le logement locatif.

Requête  
visant à  
réduire le  
loyer

(2) Une requête présentée en vertu du présent article peut être fondée sur un ou plusieurs des motifs énoncés aux articles 24 à 26.

Idem

(3) S'il croit que le loyer d'un ou de plusieurs logements locatifs de l'ensemble d'habitation serait directement touché par les questions soulevées dans une requête présentée en vertu du présent article, l'agent des loyers ajoute les locataires de ces logements locatifs comme parties à la requête.

Parties à  
ajouter

(4) Dans le cadre de la requête, l'agent des loyers qui statue sur la question fixe les loyers qui peuvent être demandés ou le loyer maximal des logements locatifs mentionnés aux paragraphes (1) et (3).

Prise en con-  
sidération de  
tous les loge-  
ments

(5) Une personne ne peut présenter de requête en vertu du présent article en qualité de locataire que si elle était locataire au moment où s'est produite la conduite qui a donné lieu à la requête.

Qui peut  
présenter une  
requête

**24** (1) Le locataire peut fonder sa requête sur une diminution extraordinaire des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage.

Frais d'ex-  
ploitation

(2) Une diminution des frais d'exploitation de tout l'ensemble d'habitation à l'égard des impôts municipaux, de l'électricité, de l'eau ou du chauffage est extraordinaire si elle est inférieure d'au moins 50 pour cent au montant de la catégorie de frais d'exploitation correspondante reconnue pour cet élément dans le barème mentionné au paragraphe 12 (1).

Cas où une  
diminution  
est extraordi-  
naire

**25** Le locataire peut fonder sa requête sur la question de savoir si le niveau d'entretien ou de réparation du logement locatif ou de l'ensemble d'habitation est insuffisant.

Entretien  
insuffisant

**26** Le locataire peut fonder sa requête sur une interruption ou une réduction des servi-

Réduction de  
services

services and facilities provided in respect of the rental unit or of the whole residential complex.

## Findings

**27.** Before making an order on an application under section 23, the rent officer shall make findings according to the prescribed rules for each rental unit affected by the order,

- (a) to determine which of the grounds the tenant relies on in the application apply to the rental unit; and
- (b) for each such ground to determine whether a reduction of the rent charged or of maximum rent is justified and in what amount.

## Order

**28.—(1)** On an application under section 23, a rent officer may, according to the prescribed rules,

- (a) order that the maximum rent for the rental unit be reduced by a specified amount;
- (b) order that the amount of rent charged for the rental unit be reduced by a specified amount for a specified period of time; or
- (c) order that the amount of rent charged for the rental unit shall not be increased for a specified period of time.

## When in effect

(2) An order under this section comes into effect,

- (a) in respect of a discontinuance or reduction in services and facilities, on the day that discontinuance or reduction first occurs; and
- (b) otherwise, on the day named in the order, which day shall not be before the date the application was filed or after the date of the order.

## Order for payment of money

(3) The rent officer may order the landlord to pay to the tenant any sum of money that is owed to the tenant as a result of the rent officer's order.

## Order under s. 30

(4) If an order under this section comes into effect before the date it is made and if, as a result, a tenant has paid rent in excess of that permitted by the order, section 30 applies to that excess rent and the rent officer's order under this section may contain any terms that could be made in an order under that section as if an application under that section had been made and joined with the application under section 23.

ces et installations fournis à l'égard d'un logement locatif ou de tout l'ensemble d'habitation.

## Conclusions

**27** Avant de rendre une ordonnance par suite d'une requête présentée en vertu de l'article 23, l'agent des loyers émet des conclusions conformément aux règles prescrites au sujet de chaque logement locatif visé par l'ordonnance :

- a) d'une part, pour déterminer lesquels des motifs invoqués par le locataire dans sa requête s'appliquent au logement locatif;
- b) d'autre part, pour déterminer, à l'égard de chacun de ces motifs, si une réduction du loyer demandé ou du loyer maximal est justifiée et en fixer le montant.

## Ordonnance

**28** (1) Par suite d'une requête présentée en vertu de l'article 23, l'agent des loyers peut, conformément aux règles prescrites, prendre l'une des mesures suivantes :

- a) ordonner que le loyer maximal du logement locatif soit réduit d'un montant précisé;
- b) ordonner que le montant du loyer demandé pour le logement locatif soit réduit d'un montant précisé pour une période précisée;
- c) ordonner que le montant du loyer demandé pour le logement locatif ne soit pas augmenté pour une période précisée.

(2) Une ordonnance rendue en vertu du présent article entre en vigueur :

## Entrée en vigueur

- a) à l'égard d'une interruption ou d'une réduction des services et installations, le jour où cette interruption ou réduction se produit pour la première fois;
- b) dans les autres cas, le jour fixé dans l'ordonnance, lequel ne peut pas tomber avant la date de dépôt de la requête ou après la date de l'ordonnance.

(3) L'agent des loyers peut ordonner au locateur de verser au locataire toute somme d'argent qu'il lui doit par suite de l'ordonnance rendue par l'agent des loyers.

## Ordonnance de paiement

(4) Si une ordonnance prévue au présent article entre en vigueur avant la date à laquelle elle est rendue et qu'il s'ensuit qu'un locataire a payé un loyer supérieur à celui que permet l'ordonnance, l'article 30 s'applique à cet excédent de loyer et l'ordonnance rendue par l'agent des loyers en vertu du présent article peut être assortie des conditions qui pourraient être imposées dans une ordonnance rendue en vertu de cet article comme si une requête présentée en vertu de

## Ordonnance visée à l'art. 30



No order to  
be made

(5) A rent officer shall not make an order under this section respecting a rental unit if an order has been made under section 96 of the *Landlord and Tenant Act* and compliance with that order would afford an adequate remedy to the tenant of the rental unit.

#### ADVANCE DETERMINATION

Advance  
determina-  
tion

**29.**—(1) Before making a capital expenditure or providing a new or additional service in respect of a residential complex or a rental unit in it, the landlord may apply to a Chief Rent Officer for an advance determination under this section.

Findings

(2) Before making an order on the application, the rent officer shall make findings in accordance with the prescribed rules for each rental unit affected by the order,

- (a) to determine whether a proposed expenditure is an eligible capital expenditure;
- (b) if a proposed expenditure or service is in respect of a rental unit, to determine if the tenant of the rental unit has consented to it;
- (c) to determine the amount that will be allowed in respect of the expenditure or service in an application made under section 13;
- (d) to determine any other prescribed matter.

Order

(3) The rent officer shall make an order based on the findings.

#### PAYMENT OF ILLEGAL RENT

Tenant not  
liable to pay  
illegal rent

**30.**—(1) No tenant is liable to pay any rent in excess of that permitted to be charged under this Act.

Application  
re illegal  
rent

(2) A tenant may apply to a Chief Rent Officer for an order determining that a landlord has charged the tenant an amount of rent that is in excess of that permitted by this Act, the *Residential Rent Regulation Act, 1986*, Part XI of the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

Findings and  
order

(3) On an application under subsection (2), a rent officer shall determine, in accordance with the prescribed rules, whether the landlord has charged the tenant an amount

cet article avait été présentée et jointe à la requête présentée en vertu de l'article 23.

Aucune  
ordonnance  
rendue

(5) L'agent des loyers ne peut pas rendre d'ordonnance en vertu du présent article à l'égard d'un logement locatif si une ordonnance a été rendue en vertu de l'article 96 de la *Loi sur la location immobilière* et que l'observation de cette ordonnance fournirait un recours adéquat au locataire du logement locatif.

#### DÉCISION ANTICIPÉE

**29** (1) Avant d'engager une dépense en immobilisations ou de fournir un nouveau service ou un service supplémentaire à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, le locateur peut demander, par voie de requête, à un agent principal des loyers de rendre une décision anticipée aux termes du présent article.

Décision anti-  
cipée

(2) Avant de rendre une ordonnance par suite de la requête, l'agent des loyers émet des conclusions, conformément aux règles prescrites, à l'égard de chaque logement locatif visé par l'ordonnance afin de :

Conclusions

- a) déterminer si la dépense proposée constitue une dépense en immobilisations admissible;
- b) s'il s'agit d'une dépense ou d'un service proposé à l'égard d'un logement locatif, déterminer si le locataire du logement locatif y a consenti;
- c) déterminer le montant qui sera reconnu à l'égard de la dépense ou du service dans une requête présentée en vertu de l'article 13;
- d) statuer sur toute autre question prescrite.

(3) L'agent des loyers rend une ordonnance en se fondant sur les conclusions.

Ordonnance

#### PAIEMENT D'UN LOYER ILLÉGAL

**30** (1) Nul locataire n'est tenu de payer un loyer qui dépasse celui que la présente loi permet de demander.

Locataire non  
tenu de payer  
un loyer illé-  
gal

(2) Un locataire peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance déterminant que le locateur lui a demandé un loyer supérieur à celui permis par la présente loi, la *Loi de 1986 sur la réglementation des loyers d'habitation*, la partie XI de la loi intitulée *Residential Tenancies Act* ou la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)*.

Requête rela-  
tive à un  
loyer illégal

(3) Par suite d'une requête présentée en vertu du paragraphe (2), un agent des loyers détermine, conformément aux règles prescrites, si le locateur a demandé au locataire un

Conclusions  
et ordon-  
nance

of rent that is in excess of that permitted by this Act, the *Residential Rent Regulation Act, 1986*, Part XI of the *Residential Tenancies Act* or *The Residential Premises Rent Review Act, 1975 (2nd Session)* and shall by order declare,

- (a) the maximum rent for the rental unit concerned and the earliest date the maximum rent took effect or takes effect;
- (b) the rent that may be charged, if that is less than the maximum rent, the earliest date on which that rent took effect or takes effect and the period it is to be in effect; and
- (c) the amount, if any, of excess rent paid by the tenant to a landlord that the landlord owes to the tenant, if that amount is equal to or less than the monetary jurisdiction of the Small Claims Court.

Idem

(4) If the amount of excess rent paid is equal to or less than the monetary jurisdiction of the Small Claims Court, the rent officer shall also order the landlord to pay the excess rent owing to the tenant plus any interest on that amount.

Idem

(5) If the amount of excess rent paid is more than the monetary jurisdiction of the Small Claims Court,

- (a) the tenant may, by notice in writing in the prescribed form filed with the rent officer, abandon the excess over the monetary jurisdiction of the Small Claims Court and seek an order for payment; or
- (b) the tenant may commence a proceeding in any court of competent jurisdiction for an order requiring the landlord to pay the full amount owed.

Idem

(6) If the tenant seeks an order under clause (5) (a), the rent officer may make an order for the landlord to pay to the tenant an amount equal to the monetary jurisdiction of the Small Claims Court plus any interest on that amount and all rights of the tenant in excess of that amount are extinguished.

Idem

(7) If the tenant commences a proceeding under clause (5) (b), the court may exercise any powers that the rent officer could have exercised had the proceeding been before the rent officer and within his or her jurisdiction.

loyer supérieur à celui permis par la présente loi, la *Loi de 1986 sur la réglementation des loyers d'habitation*, la partie XI de la loi intitulée *Residential Tenancies Act* ou la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* et déclare par voie d'ordonnance :

- a) le loyer maximal du logement locatif visé et la date à laquelle le loyer maximal a pris ou prend effet au plus tôt;
- b) le loyer qui peut être demandé, s'il est inférieur au loyer maximal, la date à laquelle ce loyer a pris ou prend effet au plus tôt et la période pendant laquelle il doit avoir effet;
- c) l'excédent de loyer, le cas échéant, que le locataire a payé au locateur et que ce dernier doit au locataire, si ce montant est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances.

Idem

(4) Si l'excédent de loyer payé est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances, l'agent des loyers ordonne également au locateur de payer l'excédent de loyer qu'il doit au locataire et l'intérêt sur ce montant.

Idem

(5) Si l'excédent de loyer payé est supérieur au montant de la compétence d'attribution de la Cour des petites créances, le locataire peut, selon le cas :

- a) au moyen d'un avis rédigé selon la formule prescrite et déposé auprès de l'agent des loyers, renoncer à la partie de l'excédent de loyer qui dépasse le montant de la compétence d'attribution de la Cour des petites créances et tenter d'obtenir une ordonnance de paiement;
- b) introduire une instance devant un tribunal compétent en vue d'obtenir une ordonnance enjoignant au locateur de payer la totalité du montant qu'il doit.

Idem

(6) Si le locataire tente d'obtenir une ordonnance en vertu de l'alinéa (5) a), l'agent des loyers peut rendre une ordonnance enjoignant au locateur de payer au locataire un montant égal au montant de la compétence d'attribution de la Cour des petites créances et l'intérêt sur ce montant. Tous les droits du locataire à l'égard de la partie de l'excédent de loyer qui dépasse ce montant sont alors éteints.

Idem

(7) Si le locataire introduit une instance en vertu de l'alinéa (5) b), le tribunal peut exercer les pouvoirs que l'agent des loyers aurait pu exercer si l'instance avait été introduite devant lui et avait relevé de sa compétence.



Order to  
deduct from  
rent

(8) If the landlord who made the illegal charge is the tenant's landlord at the time of the order, the order may provide that the tenant may recover the amount by deducting a specified sum from the tenant's rent paid to that landlord for a specified number of rent payment periods.

Lump sum  
payment

(9) A rent officer, on the application of the tenant, may rescind the order providing for deduction from rent and may order that any compensation still owing be paid in a lump sum.

Interest

(10) Interest shall be ordered at the rate set for postjudgment interest under the *Courts of Justice Act, 1984*, and the interest payable shall be calculated in accordance with the prescribed rules.

Small Claims  
Court juris-  
diction

(11) In any area in which the monetary jurisdiction of the Small Claims Court is less than \$5,000, a reference in this section to the monetary jurisdiction of the Small Claims Court shall be deemed to be a reference to \$5,000.

Limitation

(12) No order shall be made for any money paid more than six years before the filing date of the tenant's application under this section.

Who may  
make appli-  
cation

(13) A person may make an application under this section as a tenant only if the person was a tenant at the time the conduct giving rise to the application occurred.

Subtenant

(14) If a tenant of a rental unit sublets it or attempts to sublet it to another person, this section applies with necessary modifications to the tenant and the other person as if the tenant were a landlord and the other person were a tenant.

#### ILLEGAL ADDITIONAL CHARGES

Additional  
charges  
prohibited

**31.—(1)** No landlord shall, directly or indirectly, in respect of any rental unit,

- (a) collect or require or attempt to collect or require from a tenant or prospective tenant of the rental unit any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money whether or not the money is refundable;
- (b) require or attempt to require a tenant or prospective tenant to pay any con-

(8) Si le locateur qui a demandé le montant illégal est le locateur du locataire au moment où l'ordonnance est rendue, celle-ci peut prévoir que le locataire peut recouvrer ce montant en déduisant du loyer qu'il paie à ce locateur une somme déterminée pendant un nombre déterminé de périodes de paiement de loyer.

Ordonnance  
de déduction

(9) Un agent des loyers peut, par suite d'une requête du locataire, annuler l'ordonnance qui prévoit une déduction du loyer et peut ordonner que l'indemnité qui reste à payer soit acquittée en une somme globale.

Paiement en  
une somme  
globale

(10) L'ordonnance fixe l'intérêt au taux prévu par la loi intitulée *Courts of Justice Act, 1984* («*Loi de 1984 sur les tribunaux judiciaires*») pour des intérêts postérieurs à un jugement. L'intérêt payable est calculé conformément aux règles prescrites.

Intérêt

(11) Dans une localité où le montant de la compétence d'attribution de la Cour des petites créances est inférieur à 5 000 \$, la mention du montant de la compétence d'attribution de la Cour des petites créances au présent article est réputée une mention de 5 000 \$.

Compétence  
de la Cour  
des petites  
créances

(12) Aucune ordonnance ne peut être rendue à l'égard d'une somme d'argent payée plus de six ans avant la date de dépôt de la requête du locataire prévue au présent article.

Prescription

(13) Une personne ne peut présenter de requête en vertu du présent article en qualité de locataire que si elle était locataire au moment où s'est produite la conduite qui a donné lieu à la requête.

Qui peut  
présenter une  
requête

(14) Si le locataire d'un logement locatif sous-loue ou tente de sous-louer le logement à une autre personne, le présent article s'applique, avec les adaptations nécessaires, au locataire et à l'autre personne, comme si le locataire était un locateur et que l'autre personne était un locataire.

Sous-  
locataire

#### CHARGES SUPPLÉMENTAIRES ILLÉGALES

**31 (1)** Nul locateur ne doit prendre, directement ou indirectement, l'une quelconque des mesures suivantes à l'égard d'un logement locatif :

Charges sup-  
plémentaires  
interdites

- a) percevoir ou exiger, ou tenter de percevoir ou d'exiger d'un locataire ou d'un locataire éventuel du logement locatif une contrepartie, des frais, un droit, une commission, une compensation, une amende, un dépôt pour les clés ou une autre somme de ce genre, que la somme soit remboursable ou non;
- b) exiger ou tenter d'exiger d'un locataire ou d'un locataire éventuel une contre-

sideration for goods or services as a condition for granting the tenancy or continuing to permit occupancy of a rental unit if that consideration is in addition to the rent the tenant is lawfully required to pay to the landlord; or

- (c) rent any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent the landlord lawfully may charge for the rental unit.

Idem

(2) No person who acts on behalf of a landlord in respect of a rental unit shall, directly or indirectly, in respect of that rental unit do any of the things mentioned in clause (1) (a), (b) or (c).

Idem

(3) No tenant and no person acting on behalf of the tenant shall, directly or indirectly,

- (a) sublet a rental unit for a rent that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (b) sublet any portion of the rental unit for a rent which, together with all other rents payable for all other portions of the rental unit, is a sum that is greater than the rent that is lawfully charged by the landlord for the rental unit;
- (c) collect or require or attempt to collect or require from any tenant or prospective tenant any consideration, fee, premium, commission, bonus, penalty, key deposit or other like amount of money, for subletting a rental unit or any portion of it, for assigning a tenancy agreement for a rental unit, for surrendering occupancy of a rental unit or for otherwise parting with possession of a rental unit; or
- (d) require or attempt to require a prospective subtenant, assignee or occupant to pay any consideration for goods or services as a condition for the sublet, assignment or surrender of occupancy or possession in addition to the rent the subtenant, assignee or occupant is lawfully required to pay to the tenant or landlord.

partie pour des biens ou des services comme condition à l'octroi de la location et au maintien de la permission d'occuper un logement locatif si cette contrepartie s'ajoute au loyer que le locataire a l'obligation légale de payer au locateur;

- c) louer une partie du logement locatif pour un loyer qui, ajouté à tous les autres loyers payables pour toutes les autres parties du logement locatif, dépasse le loyer légal que le locateur peut demander pour le logement locatif.

Idem

(2) Nulle personne agissant au nom d'un locateur en ce qui concerne un logement locatif ne doit prendre, directement ou indirectement, l'une quelconque des mesures mentionnées à l'alinéa (1) a), b) ou c) à l'égard de ce logement locatif.

Idem

(3) Nul locataire et nulle personne agissant au nom de celui-ci ne doit prendre, directement ou indirectement, l'une quelconque des mesures suivantes :

- a) sous-louer un logement locatif pour un loyer qui dépasse le loyer légal demandé par le locateur pour le logement locatif;
- b) sous-louer une partie du logement locatif pour un loyer qui, ajouté à tous les autres loyers payables pour toutes les autres parties du logement locatif, dépasse le loyer légal que le locateur demande pour le logement locatif;
- c) percevoir ou exiger, ou tenter de percevoir ou d'exiger d'un locataire ou d'un locataire éventuel une contrepartie, des frais, un droit, une commission, une compensation, une amende, un dépôt pour les clés ou une autre somme de ce genre pour sous-louer un logement locatif ou une partie de celui-ci, pour céder le bail d'un logement locatif, pour abandonner l'occupation d'un logement locatif ou pour mettre un terme autrement à la possession des lieux en ce qui concerne un logement locatif;
- d) exiger ou tenter d'exiger d'un sous-locataire, cessionnaire ou occupant éventuel une contrepartie pour des biens ou des services comme condition à la sous-location, la cession ou l'abandon de l'occupation ou de la possession des lieux, en plus du loyer que le sous-locataire, le cessionnaire ou l'occupant a l'obligation légale de payer au locataire ou au locateur.



person has collected money from that person in contravention of clause 31 (1) (a), (1) (b), (3) (c) or (3) (d) of this Act or section 100 of the *Residential Rent Regulation Act, 1986*.

Findings and order

- (2) On an application under subsection (1), a rent officer shall,
- (a) make findings on the issue in dispute; and
  - (b) by order declare the amount, if any, of money that the person owes to the tenant, if that amount is equal to or less than the monetary jurisdiction of the Small Claims Court.

Application of s. 30

- (3) Subsections 30 (4) to (12) apply to this section with necessary modifications as if the amount owed were the excess rent and the person ordered to pay were the landlord.

#### DETERMINATION OF ISSUES

Application to determine issues

**33.**—(1) A landlord, a tenant or the Director may apply to a Chief Rent Officer for an order determining,

- (a) whether this Act applies to a particular rental unit or residential complex;
- (b) what rental units, common areas, services and facilities are included in a particular residential complex;
- (c) what the maximum rent is for a rental unit and the date on which it takes effect;
- (d) whether an agreement referred to in subsection 45 (2) has been entered into as a result of coercion; and
- (e) any other prescribed matter.

Idem

(2) A landlord, a tenant or the Registrar may apply to a Chief Rent Officer for an order determining,

- (a) whether any change of information that is necessary to determine the accuracy and currency of the rent registry has not been filed with the Registrar under section 99;
- (b) whether any information filed by a landlord under Part III is correct and complete;
- (c) whether the maximum rent recorded in the rent registry is correct;

loyers de rendre une ordonnance déterminant qu'une personne a perçu des sommes d'argent de cette personne en contravention de l'alinéa 31 (1) a), (1) b), (3) c) ou (3) d) de la présente loi ou de l'article 100 de la *Loi de 1986 sur la réglementation des loyers d'habitation*.

(2) Par suite d'une requête présentée en vertu du paragraphe (1), l'agent des loyers :

Conclusions et ordonnance

- a) émet des conclusions au sujet de la question en litige;
- b) déclare, par voie d'ordonnance, le montant, le cas échéant, de la somme d'argent que la personne doit au locataire, si ce montant est égal ou inférieur au montant de la compétence d'attribution de la Cour des petites créances.

(3) Les paragraphes 30 (4) à (12) s'appliquent au présent article, avec les adaptations nécessaires, comme si la somme due était l'excédent de loyer et que la personne à qui il est ordonné de payer cette somme était le locateur.

Application de l'art. 30

#### RÈGLEMENT DE QUESTIONS EN LITIGE

**33** (1) Un locateur, un locataire ou le directeur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance sur ce qui suit :

Requête en vue du règlement de questions en litige

- a) si la présente loi s'applique à un logement locatif en particulier ou à un ensemble d'habitation en particulier;
- b) quels logements locatifs, aires communes, services et installations sont compris dans un ensemble d'habitation en particulier;
- c) quel est le loyer maximal d'un logement locatif et quelle est la date à laquelle il entre en vigueur;
- d) si une entente visée au paragraphe 45 (2) a été conclue sous la contrainte;
- e) toute autre question prescrite.

(2) Un locateur, un locataire ou le registraire peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance sur ce qui suit :

Idem

- a) si une modification des renseignements nécessaire pour que le registre des loyers soit exact et à jour n'a pas été déclarée au registraire aux termes de l'article 99;
- b) si des renseignements déclarés par un locateur aux termes de la partie III sont exacts et complets;
- c) si le loyer maximal inscrit au registre des loyers est exact;

- (d) whether any information or determination in a notice of rent information of the Registrar is correct and complete;
- (e) whether a decrease in maximum rent calculated under section 105 is accurate;
- (f) whether the amount of the decrease of the maximum rent calculated under section 105 should be changed as a result of an appeal of the change in assessment on which it is based; and
- (g) any other prescribed matter.

Order

(3) On the application, the rent officer shall make findings on the issue put before him or her in accordance with the prescribed rules and shall make the appropriate order.

## COMPLIANCE WITH STANDARDS

Director to receive files and orders

**34.** Upon the coming into force of this section, the Director shall receive from the Residential Rental Standards Board,

- (a) all outstanding orders that it has received under clause 15 (1) (e) of the *Residential Rent Regulation Act, 1986*;
- (b) all outstanding reports and orders issued under sections 15 and 16 of that Act; and
- (c) all of its files containing information about complaints or investigations relating to possible violations of minimum maintenance standards adopted by the Standards Board under that Act.

Director to receive work orders

**35.** The Director shall receive a copy of any order, and any notice of appeal from an order, relating to a residential complex or a rental unit in it, if the order is,

- (a) issued by a property standards officer under a by-law passed under section 31 of the *Planning Act, 1983* or passed under any special Act respecting standards for maintenance and occupancy that is in force in a municipality; or
- (b) made under any general or special Act, or any by-law passed under such an Act, respecting standards relating to the health or safety of occupants of

- d) si des renseignements ou une décision contenus dans un avis de renseignements sur les loyers donné par le registraire sont exacts et complets;
- e) si une réduction du loyer maximal calculée aux termes de l'article 105 est exacte;
- f) si le montant de la réduction du loyer maximal calculée aux termes de l'article 105 devrait être modifié par suite d'un appel de la modification de l'évaluation foncière à partir de laquelle la réduction est calculée;
- g) toute autre question prescrite.

(3) Par suite de la requête, l'agent des loyers émet des conclusions, conformément aux règles prescrites, au sujet de la question en litige qui lui est soumise et rend l'ordonnance appropriée.

Ordonnance

## OBSERVATION DES NORMES

**34** Lorsque le présent article entre en vigueur, le directeur reçoit du Conseil des normes de location résidentielle ce qui suit :

Le directeur reçoit les dossiers, ordres et arrêtés

- a) tous les ordres en vigueur que le Conseil des normes a reçus aux termes de l'alinéa 15 (1) (e) de la *Loi de 1986 sur la réglementation des loyers d'habitation*;
- b) tous les rapports, arrêtés et ordres en vigueur qui ont été remis, pris ou donnés en vertu des articles 15 et 16 de cette loi;
- c) tous ses dossiers qui contiennent des renseignements au sujet de plaintes ou d'enquêtes relatives à d'éventuelles inobservations des normes d'entretien minimales adoptées par le Conseil des normes en vertu de cette loi.

**35** Le directeur reçoit une copie d'un ordre ou d'une ordonnance, et un avis d'appel de l'ordre ou de l'ordonnance, à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, si, selon le cas :

Ordres ou ordonnances reçus par le directeur

- a) l'ordre est donné par un agent des normes des biens-fonds en vertu d'un règlement municipal pris en application de l'article 31 de la loi intitulée *Planning Act, 1983* («*Loi de 1983 sur l'aménagement du territoire*») ou l'ordre est donné ou l'ordonnance rendue en application d'une loi spéciale à l'égard des normes d'entretien et d'occupation, qui est en vigueur dans une municipalité;
- b) l'ordre est donné ou l'ordonnance rendue en vertu d'une loi générale ou spéciale, ou d'un règlement municipal pris en application d'une telle loi, por-



buildings or structures in the municipality.

Application of prescribed standards

**36.**—(1) The prescribed maintenance standards apply to residential complexes and the rental units located in them if the residential complexes are located in the prescribed areas.

Director to receive complaints

(2) The Director shall receive any written complaint from a current tenant of a rental unit respecting the standard of maintenance that prevails in respect of the rental unit or the residential complex in which it is located, if the prescribed maintenance standards are in force in the area in which the residential complex is located.

Director to investigate complaints

(3) Upon receiving a complaint respecting a residential complex or a rental unit in it, the Director shall cause an inspector to make whatever inspection the Director considers necessary to determine whether the landlord has complied with the prescribed maintenance standards.

Inspector's work order

**37.**—(1) If an inspector is satisfied that the landlord of a residential complex has not complied with a prescribed maintenance standard that applies to the residential complex, the inspector may make and give to the landlord a work order requiring the landlord to comply with the prescribed maintenance standard.

Idem

(2) The inspector shall set out in the order,

- (a) the municipal address or legal description of the residential complex;
- (b) reasonable particulars of the work to be performed;
- (c) the period within which there must be compliance with the terms of the work order; and
- (d) the time limited for applying under subsection (3) to a Chief Rent Officer for a review of the work order.

Application for review

(3) If a landlord who has received an inspector's work order is not satisfied with its terms, the landlord may, within fifteen days of the giving of the order, apply to a Chief Rent Officer for a review of the work order.

Stay of order

(4) An application under subsection (3) operates as a stay of the inspector's work order unless a rent officer orders otherwise.

tant sur les normes à l'égard de la santé ou de la sécurité des occupants d'immeubles ou de constructions dans la municipalité.

**36** (1) Les normes d'entretien prescrites s'appliquent aux ensembles d'habitation et aux logements locatifs qui s'y trouvent si les ensembles d'habitation sont situés dans les zones prescrites.

(2) Le directeur reçoit toute plainte écrite déposée par le locataire actuel d'un logement locatif concernant la norme d'entretien qui a cours dans le logement locatif ou l'ensemble d'habitation où se trouve le logement locatif, si les normes d'entretien prescrites sont en vigueur dans la zone où est situé l'ensemble d'habitation.

(3) Lorsqu'il reçoit une plainte à l'égard d'un ensemble d'habitation ou d'un logement locatif qui s'y trouve, le directeur fait effectuer toute inspection qu'il estime nécessaire par un inspecteur afin de déterminer si le locateur s'est conformé aux normes d'entretien prescrites.

**37** (1) S'il est convaincu que le locateur d'un ensemble d'habitation ne s'est pas conformé à une norme d'entretien prescrite qui s'applique à l'ensemble d'habitation, l'inspecteur peut donner au locateur un ordre d'exécution de travaux lui enjoignant de se conformer à la norme d'entretien prescrite.

(2) L'inspecteur énonce dans l'ordre ce qui suit :

- a) l'adresse dans la municipalité de l'ensemble d'habitation, ou la description légale de celui-ci;
- b) une liste suffisamment détaillée des travaux à exécuter;
- c) le délai imparti pour se conformer à l'ordre d'exécution de travaux;
- d) le délai imparti pour présenter, en vertu du paragraphe (3), à un agent principal des loyers une requête en révision de l'ordre d'exécution de travaux.

(3) Si le locateur qui a reçu d'un inspecteur un ordre d'exécution de travaux n'est pas satisfait des conditions imposées par l'ordre, il peut, dans les quinze jours après que l'ordre a été donné, présenter à un agent principal des loyers une requête en révision de l'ordre d'exécution de travaux.

(4) Une requête visée au paragraphe (3) a pour effet de surseoir à l'ordre d'exécution donné par l'inspecteur, à moins qu'un agent des loyers ne rende une ordonnance à l'effet contraire.

Application des normes prescrites

Réception des plaintes par le directeur

Enquête sur les plaintes par le directeur

Ordre d'exécution de travaux donné par l'inspecteur

Idem

Requête en révision

Sursis d'exécution

Order	(5) On an application under subsection (3), a rent officer shall, by order,	(5) Par suite d'une requête présentée en vertu du paragraphe (3), un agent des loyers prend, par voie d'ordonnance, l'une des mesures suivantes :	Ordonnance
	(a) confirm or vary the inspector's work order;	a) il confirme ou modifie l'ordre d'exécution de travaux donné par l'inspecteur;	
	(b) rescind the work order, if he or she finds that the landlord has complied with it;	b) il annule l'ordre d'exécution de travaux, s'il conclut que le locateur s'y est conformé;	
	(c) quash the work order; or	c) il casse l'ordre d'exécution de travaux;	
	(d) dismiss the landlord's application.	d) il rejette la requête du locateur.	
Director's notice	<b>38.</b> —(1) The Director shall issue a notice of possible rent penalty against a landlord if,	<b>38</b> (1) Le directeur délivre au locateur un avis d'interdiction éventuelle d'augmenter le loyer si, selon le cas :	Avis du directeur
	(a) the Director has received a work order under section 34;	a) le directeur a reçu un ordre ou arrêté d'exécution de travaux visés à l'article 34;	
	(b) the Director has received a work order under section 35; or	b) le directeur a reçu un ordre ou une ordonnance d'exécution de travaux visés à l'article 35;	
	(c) a work order under section 37 is in effect and the period for compliance with that order has expired.	c) un ordre d'exécution de travaux donné en vertu de l'article 37 est en vigueur et que le délai imparti pour se conformer à cet ordre a expiré.	
Idem	(2) The Director shall set out in the notice,	(2) Le directeur énonce dans l'avis ce qui suit :	Idem
	(a) the municipal address or legal description of the rental unit or residential complex affected;	a) l'adresse dans la municipalité du logement locatif ou de l'ensemble d'habitation visé, ou la description légale de celui-ci;	
	(b) reasonable particulars of the work order to be complied with;	b) des renseignements suffisants concernant l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux auquel il faut se conformer;	
	(c) the time limited for applying to a Chief Rent Officer under subsection (3) for a review of the work order; and	c) le délai imparti pour présenter à un agent principal des loyers, en vertu du paragraphe (3), une requête en révocation de l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux;	
	(d) the fact that if the landlord does not complete the work within thirty days, the Director may issue a rent penalty order under section 39.	d) le fait que si le locateur n'achève pas les travaux dans les trente jours, le directeur peut délivrer un ordre interdisant d'augmenter le loyer en vertu de l'article 39.	
Application for rescission	(3) The landlord may, within thirty days of the giving of the notice, apply to a Chief Rent Officer for an order rescinding the Director's notice.	(3) Le locateur peut, dans les trente jours qui suivent la remise de l'avis, demander par voie de requête à un agent principal des loyers de rendre une ordonnance annulant l'avis du directeur.	Requête en annulation
Order	(4) On an application under subsection (3), a rent officer shall, by order,	(4) Par suite d'une requête présentée en vertu du paragraphe (3), l'agent des loyers, par voie d'ordonnance :	Ordonnance
	(a) rescind the Director's notice, if he or she finds that the landlord has complied with it before the expiry of the thirty days referred to in the notice; or	a) annule l'avis du directeur, s'il conclut que le locateur s'y est conformé avant l'expiration du délai de trente jours mentionné dans l'avis;	



- (b) dismiss the landlord's application, otherwise.

Idem

(5) The rent officer shall rescind the Director's notice if,

- (a) an order has been made under section 96 of the *Landlord and Tenant Act* and compliance with that order would afford an adequate remedy to the tenant of any affected rental unit; or
- (b) a tenant has applied under section 23 for a reduction of rent and an order under section 28 would afford an adequate remedy to the tenant of any affected rental unit.

Rent penalty order

**39.—**(1) The Director may issue a rent penalty order against a landlord any time after the expiry of the thirty days referred to in a notice under section 38 unless,

- (a) the issuer of a work order has advised the Director in writing that the landlord has complied with the work order; or
- (b) an application under subsection 38 (3) for an order rescinding the Director's notice has not been finally determined or, if it has been finally determined, the Director's notice was rescinded.

Idem

(2) A Director's rent penalty order shall provide that the landlord shall not collect any increase in rent that applies to a rental unit affected by the non-compliance with the work order if the increase will take effect on or after the effective date of the rent penalty order.

Idem

(3) The order may provide that while it is in effect,

- (a) if a notice of rent increase respecting the rental unit was given before the order is issued and no increase has been taken under that notice, the notice is void; and
- (b) the landlord shall not give a notice of rent increase.

Effective date

(4) A rent penalty order takes effect,

- (a) on the last day for compliance set out in the original work order, if an application under subsection 38 (3) for an order rescinding the Director's notice

- b) rejette la requête du locateur, dans les autres cas.

(5) L'agent des loyers annule l'avis du directeur si, selon le cas :

Idem

- a) une ordonnance a été rendue en vertu de l'article 96 de la *Loi sur la location immobilière* et que l'observation de cette ordonnance offrait un recours adéquat au locataire du logement locatif visé;
- b) un locataire a demandé, par voie de requête, en vertu de l'article 23, une réduction de loyer et qu'une ordonnance rendue en vertu de l'article 28 offrait un recours adéquat au locataire du logement locatif visé.

**39** (1) Le directeur peut délivrer au locateur un ordre lui interdisant d'augmenter le loyer, à tout moment après l'expiration du délai de trente jours mentionné dans l'avis visé à l'article 38, sauf si, selon le cas :

Ordre interdisant d'augmenter le loyer

- a) le délivreur d'un arrêté, d'un ordre ou d'une ordonnance d'exécution de travaux a avisé par écrit le directeur du fait que le locateur s'est conformé à l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux;
- b) une requête présentée en vertu du paragraphe 38 (3) en vue d'obtenir une ordonnance annulant l'avis du directeur n'a pas fait l'objet d'une décision définitive ou, si une décision définitive a été rendue, l'avis du directeur a été annulé.

Idem

(2) L'ordre d'interdiction rendu par le directeur prévoit que le locateur ne doit pas percevoir d'augmentation de loyer qui s'applique à un logement locatif touché par l'inobservation de l'arrêté, de l'ordre ou de l'ordonnance d'exécution de travaux, si l'augmentation prend effet à la date d'entrée en vigueur de l'ordre d'interdiction ou après cette date.

(3) L'ordre peut prévoir ce qui suit pour la période pendant laquelle il est en vigueur :

Idem

- a) si un avis d'augmentation de loyer à l'égard du logement locatif a été donné avant que l'ordre ne soit délivré et qu'aucune augmentation n'a été perçue aux termes de cet avis, l'avis est nul;
- b) le locateur ne doit pas donner d'avis d'augmentation de loyer.

(4) L'ordre interdisant d'augmenter le loyer entre en vigueur :

Date d'entrée en vigueur

- a) le dernier jour du délai imparti dans l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux original pour s'y conformer, si une requête présen-

	has been finally determined and dismissed; or	tée en vertu du paragraphe 38 (3) en vue d'obtenir une ordonnance annulant l'avis du directeur a fait l'objet d'une décision définitive et a été rejetée;	
	(b) on the day it is issued, otherwise.	b) le jour où il est délivré, dans les autres cas.	
Term	(5) The rent penalty order shall remain in effect until the Director issues a notice under section 40 or a rent officer makes an order under section 41.	(5) L'ordre d'interdiction reste en vigueur jusqu'à ce que le directeur délivre un avis aux termes de l'article 40 ou qu'un agent des loyers rende une ordonnance en vertu de l'article 41.	Durée
Contents of order	(6) The rent penalty order shall contain the municipal address or legal description of the rental unit or residential complex affected and reasonable particulars of the work order that is the subject of the rent penalty order.	(6) L'ordre d'interdiction contient l'adresse dans la municipalité du logement locatif ou de l'ensemble d'habitation visé, ou la description légale de celui-ci, et des renseignements suffisants concernant l'arrêté, l'ordre ou l'ordonnance d'exécution de travaux qui fait l'objet de l'ordre d'interdiction.	Contenu de l'ordre
Completion of work	<b>40.</b> —(1) If a landlord to whom a rent penalty order has been given completes the work in a work order or in a rent officer's order, the landlord may notify the Director of that fact.	<b>40</b> (1) Si le locateur à qui a été donné un ordre interdisant d'augmenter le loyer achève les travaux énoncés dans un arrêté, un ordre ou une ordonnance d'exécution de travaux ou dans une ordonnance rendue par un agent des loyers, il peut en aviser le directeur.	Achèvement des travaux
Inspection	(2) Upon receiving a landlord's notice, the Director shall inspect the residential complex or rental unit to which the order relates to determine whether the work has been done.	(2) Lorsqu'il reçoit l'avis du locateur, le directeur inspecte l'ensemble d'habitation ou le logement locatif auquel l'ordre se rapporte pour déterminer si les travaux ont été faits.	Inspection
Notice	(3) Upon completing an inspection, the Director shall notify the landlord and the tenants,  (a) that the rent penalty order is rescinded, if he or she is satisfied the landlord has completed the work to which it relates; or  (b) that the order remains in effect, otherwise.	(3) Lorsqu'il termine une inspection, le directeur avise le locateur et les locataires que, selon le cas :  a) l'ordre d'interdiction est annulé, s'il est convaincu que le locateur a achevé les travaux auquel l'ordre se rapporte;  b) l'ordre demeure en vigueur, s'il en est autrement.	Avis
Idem	(4) If the issuer of a work order that is the subject of a rent penalty order gives written notice to the Director that the work to which it relates has been completed, the Director shall notify the landlord and the tenants that the rent penalty order is rescinded.	(4) Si le délivreur d'un arrêté, d'un ordre ou d'une ordonnance d'exécution de travaux qui fait l'objet d'un ordre d'interdiction donne au directeur un avis par écrit du fait que les travaux auxquels il se rapporte ont été achevés, le directeur avise le locateur et les locataires que l'ordre d'interdiction est annulé.	Idem
Effect of notice	(5) A landlord who receives a notice rescinding a rent penalty order may issue a notice of rent increase and increase rent in accordance with this Act any time after the notice is issued.	(5) Le locateur qui reçoit un avis annulant un ordre d'interdiction peut délivrer un avis d'augmentation de loyer et augmenter le loyer conformément à la présente loi, à tout moment après que l'avis est délivré.	Effet de l'avis
Application for withdrawal	<b>41.</b> —(1) A landlord may at any time apply to a Chief Rent Officer for an order rescinding a rent penalty order.	<b>41</b> (1) Le locateur peut, à tout moment, demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance annulant un ordre lui interdisant d'augmenter le loyer.	Requête visant un retrait
Order	(2) On an application under this section, a rent officer may order that the rent penalty	(2) Par suite d'une requête présentée en vertu du présent article, l'agent des loyers	Ordonnance



order be rescinded if he or she is satisfied that the landlord has completed the work to which it relates.

Idem

(3) The rent officer shall rescind the rent penalty order if,

- (a) an order has been made under section 96 of the *Landlord and Tenant Act* and compliance with that order would afford an adequate remedy to the tenant of any affected rental unit; or
- (b) a tenant has applied under section 23 for a reduction of rent and an order under section 28 would afford an adequate remedy to the tenant of any affected rental unit.

#### FAILURE TO FILE INFORMATION

Registrar's application

**42.**—(1) The Registrar may apply to a Chief Rent Officer for a rent penalty order against a landlord for failure to file information under section 96, 99 or 100.

Order

(2) If a rent officer finds that the landlord was required to file information under section 96, 99 or 100 and the landlord has failed to do so, the rent officer may by order provide that,

- (a) if any notice of rent increase respecting a rental unit in the residential complex was given before the order is issued and no increase has been taken under that notice, the notice is void;
- (b) the landlord shall not give a notice of rent increase respecting any rental unit in the residential complex; and
- (c) the landlord shall not increase the rent charged for any rental unit in the residential complex.

Idem

(3) The rent officer may provide a date in the order on which it is to expire.

Contents of order

(4) The order shall contain the municipal address or legal description of the rental unit or residential complex affected and reasonable particulars of the information to be filed.

Notice of rescission

(5) If the landlord files the information that is required, the Registrar shall notify the landlord and the tenants that the rent penalty order is rescinded.

Effect of notice

(6) A landlord who receives a notice rescinding a rent penalty order may issue a notice of rent increase and increase rent in

peut ordonner l'annulation de l'ordre d'interdiction s'il est convaincu que le locateur a achevé les travaux auxquels l'ordre se rapporte.

(3) L'agent des loyers annule l'ordre interdisant d'augmenter le loyer si, selon le cas :

Idem

- a) une ordonnance a été rendue en vertu de l'article 96 de la *Loi sur la location immobilière* et que l'observation de cette ordonnance offrait un recours adéquat au locataire du logement locatif visé;
- b) un locataire a demandé, par voie de requête, en vertu de l'article 23, une réduction de loyer et qu'une ordonnance rendue en vertu de l'article 28 offrait un recours adéquat au locataire du logement locatif visé.

#### DÉFAUT DE DÉCLARER DES RENSEIGNEMENTS

**42** (1) Le registrateur peut demander, par voie de requête, à un agent principal des loyers de rendre une ordonnance interdisant au locateur d'augmenter le loyer pour ne pas avoir déclaré des renseignements aux termes de l'article 96, 99 ou 100.

Requête du registrateur

(2) S'il conclut que le locateur était tenu de déclarer des renseignements aux termes de l'article 96, 99 ou 100 et que le locateur a omis de le faire, l'agent des loyers peut, par voie d'ordonnance, prévoir ce qui suit :

Ordonnance

- a) si un avis d'augmentation de loyer à l'égard d'un logement locatif de l'ensemble d'habitation a été donné avant que l'ordonnance ne soit rendue et qu'aucune augmentation n'a été perçue aux termes de cet avis, l'avis est nul;
- b) le locateur ne doit pas donner d'avis d'augmentation de loyer à l'égard d'un logement locatif de l'ensemble d'habitation;
- c) le locateur ne doit pas augmenter le loyer demandé pour un logement locatif de l'ensemble d'habitation.

(3) L'agent des loyers peut fixer dans l'ordonnance la date d'expiration de celle-ci.

Idem

(4) L'ordonnance contient l'adresse dans la municipalité du logement locatif ou de l'ensemble d'habitation visé, ou la description légale de celui-ci, et une liste suffisamment détaillée des renseignements à déclarer.

Contenu de l'ordonnance

(5) Si le locateur déclare les renseignements exigés, le registrateur avise le locateur et les locataires que l'ordonnance d'interdiction est annulée.

Avis d'annulation

(6) Le locateur qui reçoit un avis annulant une ordonnance d'interdiction peut délivrer un avis d'augmentation de loyer et augmen-

Effet de l'avis

accordance with this Act any time after the notice is issued.

Application  
for with-  
drawal

**43.**—(1) A landlord may at any time apply to a Chief Rent Officer for an order withdrawing a rent penalty order under section 42.

Order

(2) On an application under this section, the rent officer may order that the order be withdrawn if he or she is satisfied that the landlord has filed the information required.

#### SEPARATE CHARGES

Definitions

**44.**—(1) In this section,

“basic unit rent” means the amount obtained when all separate charges are subtracted from the rent; (“loyer de base du logement”)

“separate charges” means that part of the rent that a landlord charges separately for any service, facility, privilege, accommodation or thing that the landlord provides for the tenant in respect of the tenant’s occupancy of the rental unit. (“charges distinctes”)

Elements of  
maximum  
rent set out  
separately

(2) In an order in which a rent officer sets out or declares the maximum rent for a rental unit, he or she may separately set out or declare the maximum basic unit rent and the maximum separate charges.

Equalization  
of separate  
charges

(3) In an order in which a rent officer sets out or declares the maximum rent for a rental unit, he or she may provide for the immediate equalization of separate charges for parking spaces or other prescribed separate charges.

Adding or  
discontinuing  
services, etc.

**45.**—(1) The maximum rent which may be charged for a rental unit shall be increased or decreased in the prescribed manner if the landlord and tenant agree that the landlord will provide or discontinue the provision of any of the following in respect of the tenant’s occupancy of the rental unit:

1. A parking space.
2. A service, facility, privilege, accommodation or thing as may be prescribed.
3. A service, facility, privilege, accommodation or thing for which a separate charge is set out in respect of the residential complex in an order under this Act, the *Residential Rent Regulation Act, 1986* or the *Residential Tenancies Act*.

ter le loyer conformément à la présente loi, à tout moment après que l’avis est délivré.

**43** (1) Le locateur peut, à tout moment, demander par voie de requête à un agent principal des loyers de rendre une ordonnance retirant une ordonnance d’interdiction visée à l’article 42.

Requête  
visant un  
retrait

(2) Par suite d’une requête présentée en vertu du présent article, l’agent des loyers peut ordonner le retrait de l’ordonnance s’il est convaincu que le locateur a déclaré les renseignements exigés.

Ordonnance

#### CHARGES DISTINCTES

**44** (1) Les définitions qui suivent s’appliquent au présent article.

Définitions

«charges distinctes» La portion du loyer que le locateur demande séparément pour les services, installations, privilèges, commodités ou choses qu’il fournit au locataire à l’égard de l’occupation par ce dernier du logement locatif. («separate charges»)

«loyer de base du logement» Le montant obtenu lorsque toutes les charges distinctes sont soustraites du loyer. («basic unit rent»)

(2) Dans une ordonnance dans laquelle il fixe ou déclare le loyer maximal d’un logement locatif, l’agent des loyers peut fixer ou déclarer séparément le montant maximal du loyer de base du logement et les charges distinctes maximales.

Éléments du  
loyer maximal.  
énoncés sépa-  
rément

(3) Dans une ordonnance dans laquelle il fixe ou déclare le loyer maximal d’un logement locatif, l’agent des loyers peut prévoir la péréquation immédiate des charges distinctes pour les places de stationnement ou des autres charges distinctes qui sont prescrites.

Péréquation  
des charges  
distinctes

**45** (1) Le loyer maximal qui peut être demandé pour un logement locatif est augmenté ou réduit de la manière prescrite si le locateur et le locataire s’entendent pour que le locateur fournisse ou cesse de fournir, à l’égard de l’occupation du logement locatif par le locataire, l’un quelconque des éléments suivants :

Services ajou-  
tés ou retirés

1. Une place de stationnement.
2. Un service, une installation, un privilège, une commodité ou une chose qui peuvent être prescrits.
3. Un service, une installation, un privilège, une commodité ou une chose pour lesquels une charge distincte à l’égard de l’ensemble d’habitation est fixée dans un arrêté pris, un ordre donné ou une ordonnance rendue en vertu de la présente loi, de la *Loi de 1986 sur la réglementation des loyers*



Coerced  
agreement  
not enforce-  
able

(2) If an order under section 33 determines that an agreement under subsection (1) has been entered into as a result of coercion, the agreement is not enforceable.

Twelve-  
month rule

(3) Section 6 does not apply to an increase in maximum rent under this section.

## PART II

### PROCEDURE

Part I appli-  
cations

**46.** All applications under Part I are subject to the procedural rules set out in this Part.

Application  
to region

**47.**—(1) Where Part I provides that an application is to be made to a Chief Rent Officer, it shall be made to the Chief Rent Officer for the region in which the residential complex to which it relates is located.

Where  
proceedings  
held

(2) The Chief Rent Officer who receives an application shall assign the application to the region in which it is to be determined.

Method of  
giving  
notice, etc.

**48.**—(1) When this Act permits or requires a notice or document to be given by a person other than an employee or agent of the Ministry exercising a power or duty under this Act to a person other than such an employee or agent, the notice or document is sufficiently given by,

- (a) handing it to the person;
- (b) if the person is a landlord, handing it to any employee of the landlord exercising authority in respect of the residential complex;
- (c) if the person is a tenant, subtenant or occupant, handing it to an apparently adult person in the rental unit;
- (d) leaving it in the mail box where mail is ordinarily delivered to the person;
- (e) where there is no mail box, leaving it at the place where mail is ordinarily delivered to the person; or
- (f) sending it by mail to the address where the person resides or carries on business.

Notice given  
by mail

(2) A notice or document given by mail shall be deemed to have been given on the fifth day after mailing.

## *d'habitation ou de la loi intitulée Residential Tenancies Act.*

(2) Si une ordonnance visée à l'article 33 porte qu'une entente visée au paragraphe (1) a été conclue sous la contrainte, l'entente n'est pas exécutoire.

(3) L'article 6 ne s'applique pas à l'augmentation du loyer maximal visée au présent article.

## PARTIE II

### PROCÉDURE

**46** Toutes les requêtes présentées en vertu de la partie I sont assujetties aux règles de procédure énoncées dans la présente partie.

**47** (1) Lorsque la partie I prévoit qu'une requête doit être présentée à un agent principal des loyers, la requête est présentée à l'agent principal des loyers de la région où est situé l'ensemble d'habitation auquel elle se rapporte.

(2) L'agent principal des loyers qui reçoit une requête la transmet à la région dans laquelle il sera statué sur la question.

**48** (1) Lorsque la présente loi permet ou exige qu'une personne autre qu'un employé ou représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi donne un avis ou un document à une personne autre qu'un tel employé ou représentant, l'avis ou le document est valablement donné de l'une des façons suivantes :

- a) en le donnant en main propre à la personne;
- b) si la personne est un locateur, en le donnant à tout employé du locateur qui exerce une autorité à l'égard de l'ensemble d'habitation;
- c) si la personne est un locataire, un sous-locataire ou un occupant, en le donnant à une personne qui paraît majeure et qui est dans le logement locatif;
- d) en le laissant dans la boîte aux lettres où la personne reçoit ordinairement son courrier;
- e) s'il n'y a pas de boîte aux lettres, en le laissant à l'endroit où la personne reçoit ordinairement son courrier;
- f) en l'expédiant par la poste à l'adresse où la personne réside ou fait affaire.

(2) L'avis ou le document donné par la poste est réputé avoir été donné le cinquième jour après la mise à la poste.

Une entente  
conclue sous  
la contrainte  
n'est pas  
exécutoire

Règle des  
douze mois

Requêtes  
présentées en  
vertu de la  
partie I

Requête au  
niveau régio-  
nal

Instances  
dans une  
région

Façons de  
donner un  
avis

Avis donné  
par la poste

Written  
directions

(3) A rent officer may in writing direct that a notice or document be given in a manner other than as provided in this section.

(3) L'agent des loyers peut ordonner par écrit qu'un avis ou un document soit donné d'une façon autre que celle prévue au présent article.

Directives  
écrites

Actual  
notice is  
sufficient

(4) Even if a notice or document is not given in accordance with this section, it shall be deemed to have been validly given if it is proven that its contents actually came to the attention of the person for whom it was intended within the time required by this Act.

(4) Même si un avis ou un document n'est pas donné conformément au présent article, il est réputé avoir été donné de façon valable s'il est prouvé que le destinataire a réellement pris connaissance de son contenu dans le délai imparti par la présente loi.

Connaissance  
réelle du con-  
tenu de l'avis

Computation  
of time

(5) Time shall be computed in accordance with the prescribed rules.

(5) Les délais sont calculés conformément aux règles prescrites.

Calcul des  
délais

Ministry  
notice to  
tenant

**49.—**(1) Subject to subsection (2), when this Act permits or requires an employee or agent of the Ministry exercising a power or duty under this Act to give a notice or document to the tenant of a rental unit, the notice or document may be given to the occupant of the rental unit.

**49** (1) Sous réserve du paragraphe (2), lorsque la présente loi permet ou exige qu'un employé ou représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi donne un avis ou un document au locataire d'un logement locatif, l'avis ou le document peut être donné à l'occupant du logement locatif.

Avis du  
ministère au  
locataire

Idem

(2) If the tenant has notified the Ministry in writing of an address other than that of the rental unit where notices or documents are to be given, an employee or agent of the Ministry exercising a power or duty under this Act shall give the notice or document to the tenant at the address given in the notice.

(2) Si le locataire a avisé par écrit le ministère que les avis ou documents doivent être donnés à une adresse autre que celle du logement locatif, l'employé ou le représentant du ministère exerçant un pouvoir ou une fonction en vertu de la présente loi donne l'avis ou le document au locataire à l'adresse indiquée dans l'avis.

Idem

#### PARTIES

Parties

**50.—**(1) The parties to an application are the applicant, other than the Registrar or Director, any person entitled, other than under subsection 53 (4), to receive a copy of the application and any person added as a party by a rent officer.

**50** (1) Les parties à une requête sont le requérant, autre que le registrateur ou le directeur, toute personne qui a le droit, autrement qu'en vertu du paragraphe 53 (4), de recevoir une copie de la requête et toute personne mise en cause par l'agent des loyers.

Parties

Including a  
party

(2) If a rent officer believes that a person who should be included as a party has not been so included, the rent officer shall require that the person be substituted or added as a party to the proceeding.

(2) Si l'agent des loyers croit qu'une personne qui devrait être mise en cause ne l'a pas été, il exige que la personne remplace une partie à l'instance ou qu'elle y soit mise en cause.

Mise en cause

Correctly  
naming a  
party

(3) If a rent officer believes that a party has been incorrectly named, the rent officer shall require that the person be correctly named.

(3) Si l'agent des loyers croit qu'une partie a été nommée incorrectement, il exige que cette personne soit nommée correctement.

Partie nom-  
mée incorrec-  
tement

Removing a  
party

(4) If a rent officer believes that a person who has been included as a party should not be included as a party, the rent officer shall require that the person be removed as a party to the proceeding.

(4) Si l'agent des loyers croit qu'une personne qui a été mise en cause ne devrait pas l'être, il exige le retrait de cette personne comme partie à l'instance.

Retrait d'une  
partie

#### APPLICATION AND RESPONSE

Form of  
application

**51.—**(1) An application made by a person other than the Registrar or the Director shall be made in the prescribed form and shall be signed by the applicant.

**51** (1) Une requête présentée par une personne autre que le registrateur ou le directeur est rédigée selon la formule prescrite et elle est signée par le requérant.

Forme de la  
requête

Agent

(2) An applicant may give an agent written authorization to sign the application and,

(2) Le requérant peut donner à un représentant l'autorisation, par écrit, de signer la

Représentant



if the applicant does so, a rent officer may require a copy of the authorization to be filed.

If name of tenant not known

(3) If a landlord who makes an application does not know the name of a tenant directly affected by the application, the name of the tenant may be shown in the application as "tenant" or "locataire" and all orders shall be binding on the tenant occupying the rental unit as if the tenant had been correctly named.

If name of landlord not known

(4) If a tenant who makes an application does not know the name of the landlord, the name of the landlord may be shown in the application as "landlord" or "locateur" and all orders shall be binding on the landlord as if the landlord had been correctly named.

Supporting material

**52.** The applicant shall file with the application,

- (a) all evidence that the applicant relies upon in support of the application;
- (b) in the case of an application under section 13 (application for increase above guideline), a cost statement in the prescribed form and information concerning the operating costs for municipal taxes, hydro, water and heating; and

(c) the prescribed material.

Copy of application to parties

**53.**—(1) A landlord who makes an application shall, within ten days of filing it, give a copy of it to any tenant, subtenant or occupant who, at the time the application is made, is directly affected by the issues raised in it.

Idem

(2) A tenant or other person who makes an application shall, within ten days of filing it, give a copy of the application to any person who is directly affected by the issues raised in it.

Idem

(3) If a rent officer adds other parties to a tenant's application under subsection 23 (3), the rent officer, rather than the tenant, shall give a copy of the application to those parties.

If new landlord or new tenant

(4) If a landlord or tenant is succeeded by a new landlord or tenant after an application is made and before an order is made respecting it, the applicant shall within ten days of becoming aware of the change give the new landlord or tenant a copy of the application.

Written directions

(5) A rent officer may give written directions concerning the giving of copies of an

requête et, le cas échéant, l'agent des loyers peut exiger que soit déposée une copie de l'autorisation.

(3) Si le locateur qui présente une requête ne connaît pas le nom d'un locataire directement concerné par la requête, le locataire peut y être désigné sous le nom de «locataire» ou «tenant» et toutes les ordonnances lient le locataire occupant le logement locatif comme s'il avait été nommé correctement.

(4) Si le locataire qui présente une requête ne connaît pas le nom du locateur, le locateur peut y être désigné sous le nom de «locateur» ou «landlord» et toutes les ordonnances lient le locateur comme s'il avait été nommé correctement.

**52** Le requérant dépose avec la requête les pièces justificatives suivantes :

- a) tous les éléments de preuve sur lesquels le requérant fonde sa requête;
- b) dans le cas d'une requête présentée en vertu de l'article 13 (requête en vue d'obtenir une augmentation supérieure au taux légal), un état des dépenses rédigé selon la formule prescrite et des renseignements concernant les frais d'exploitation à l'égard des impôts municipaux, de l'électricité, de l'eau et du chauffage;
- c) les pièces prescrites.

**53** (1) Le locateur qui présente une requête donne, dans les dix jours qui suivent le dépôt de la requête, une copie de celle-ci à tout locataire, sous-locataire ou occupant qui, au moment où est présentée la requête, est directement concerné par les questions qui y sont soulevées.

(2) Le locataire ou une autre personne qui présente une requête donne, dans les dix jours qui suivent le dépôt de la requête, une copie de celle-ci à quiconque est directement concerné par les questions qui y sont soulevées.

(3) Si l'agent des loyers ajoute d'autres parties à la requête du locataire aux termes du paragraphe 23 (3), l'agent des loyers, et non le locataire, donne une copie de la requête à ces parties.

(4) Si un locateur ou un locataire est remplacé par un nouveau locateur ou un nouveau locataire après que la requête a été présentée mais avant qu'une ordonnance ne soit rendue à l'égard de celle-ci, le requérant en donne une copie au nouveau locateur ou au nouveau locataire dans les dix jours après qu'il a pris connaissance du changement.

(5) L'agent des loyers peut donner des directives écrites concernant la remise de

Cas où le nom du locataire n'est pas connu

Cas où le nom du locateur n'est pas connu

Pièces justificatives

Copie de la requête aux parties

Idem

Idem

Nouveau locateur ou nouveau locataire

Directives écrites

application and a person who complies with those directions shall be deemed to comply with this section.

Amending applications

**54.** If a rent officer believes that an amendment to an application is justified and fair, the rent officer may direct the application be amended accordingly.

Withdrawing applications

**55.**—(1) An applicant may withdraw an application within fifteen days after the acknowledgment notice is issued in respect of it.

Idem

(2) An application or consent may be withdrawn after the time referred to in subsection (1) only with the consent of a rent officer and he or she may impose conditions on which the consent is given.

copies d'une requête, et la personne qui se conforme à ces directives est réputée se conformer au présent article.

**54** Si l'agent des loyers croit qu'une modification à une requête est justifiée et équitable, il peut ordonner que la requête soit modifiée en conséquence.

Modification des requêtes

**55** (1) Le requérant peut se désister de sa requête dans les quinze jours qui suivent la délivrance de l'avis accusant réception de celle-ci.

Désistement

(2) Après l'expiration du délai visé au paragraphe (1), une requête ne peut faire l'objet d'un désistement et un consentement ne peut être retiré qu'avec le consentement de l'agent des loyers qui peut assortir son consentement de conditions.

Idem

#### PRE-DETERMINATION PROCEDURE

Acknowledgment notice

**56.** Upon receiving an application, the Chief Rent Officer shall give the parties an acknowledgment notice advising them,

- (a) that the application has been filed;
- (b) that the materials filed with it are available for inspection;
- (c) of the right of parties to file submissions;
- (d) of the right of parties other than the applicant to request a hearing and a pre-hearing conference;
- (e) that there will be no right of appeal to the order made respecting the application, except on a matter of law; and
- (f) of any other matter the Chief Rent Officer considers appropriate.

Parties may examine material

**57.**—(1) All parties to a proceeding may examine all material filed with the Chief Rent Officer or a rent officer respecting an application and the Chief Rent Officer or rent officer shall make that material available for examination.

Written submissions

(2) Any person affected by an application, other than the applicant, may make written submissions in respect of the application and the material filed in support of it and shall be given at least forty days from the date the acknowledgment notice is issued to do so.

Extension, etc., of time

**58.**—(1) A rent officer may extend or abridge the time for making an application, for giving a copy of an application to a party, for making submissions or for filing a document.

#### PROCÉDURE PRÉPARATOIRE À LA DÉCISION

**56** Lorsqu'il reçoit une requête, l'agent principal des loyers donne aux parties un avis accusant réception de la requête les avisant de ce qui suit :

Avis accusant réception

- a) la requête a été déposée;
- b) les pièces déposées avec celle-ci sont disponibles aux fins d'inspection;
- c) les parties ont le droit de déposer des observations;
- d) les parties autres que le requérant ont le droit de demander une audience et une conférence préparatoire à l'audience;
- e) il n'existe aucun droit d'appel de l'ordonnance rendue à l'égard de la requête, sauf sur une question de droit;
- f) toute autre question que l'agent principal des loyers considère appropriée.

**57** (1) Toutes les parties à une instance peuvent examiner toutes les pièces déposées auprès de l'agent principal des loyers ou d'un agent des loyers à l'égard d'une requête. L'agent principal des loyers ou l'agent des loyers met ces pièces à la disposition des parties aux fins d'examen.

Examen des pièces par les parties

(2) Quiconque, autre que le requérant, est concerné par une requête, peut présenter des observations par écrit au sujet de la requête et des pièces déposées à l'appui de celle-ci, et a au moins quarante jours à partir de la date de délivrance de l'avis accusant réception de la requête pour le faire.

Observations par écrit

**58** (1) L'agent des loyers peut proroger ou abréger le délai imparti pour présenter une requête, pour donner une copie de la requête à une partie, pour présenter des observations ou pour déposer un document.

Prorogation des délais



Idem	(2) The rent officer may attach whatever conditions to the extension or abridgement that he or she considers fair.	(2) L'agent des loyers peut assortir la prorogation ou l'abrégement des conditions qu'il estime justes.	Idem
Idem	(3) A rent officer may extend the time for doing something even if the time for doing it has expired and may abridge time for doing something even if the time for commencing it has passed.	(3) L'agent des loyers peut proroger le délai imparti pour faire quelque chose, même si celui-ci a expiré, et il peut abréger le délai imparti pour faire quelque chose, même si le moment prévu pour commencer à le faire est passé.	Idem
Notice	(4) A rent officer shall give all affected parties written notice of an extension or abridgement of time.	(4) L'agent des loyers donne à toutes les parties concernées un avis écrit de la prorogation ou de l'abrégement du délai.	Avis
Effect of extension of time	(5) If a rent officer extends or abridges time, he or she shall notify the parties affected by the application of the new filing date and of any resulting new times for making submissions.	(5) S'il proroge ou abrège un délai, l'agent des loyers avise les parties concernées par la requête de la nouvelle date de dépôt et des nouveaux délais de présentation des observations qui en résultent.	Effet de la prorogation des délais
RIGHT TO A HEARING		DROIT À UNE AUDIENCE	
Request for hearing	<b>59.</b> —(1) An applicant who wants a hearing to be held shall request the hearing in the application.	<b>59</b> (1) Le requérant qui désire qu'une audience soit tenue demande l'audience dans la requête.	Demande d'audience
Idem	(2) Any other party to a proceeding may, by written notice to the Chief Rent Officer given not later than fifteen days after the date the acknowledgment notice is issued, request that a hearing be held in respect of the application.	(2) Une autre partie à l'instance peut, par avis écrit donné à l'agent principal des loyers au plus tard quinze jours après la date de délivrance de l'avis accusant réception de la requête, demander la tenue d'une audience à l'égard de la requête.	Idem
Extension	(3) A rent officer may extend the time for any party to request a hearing at any time before a notice of administrative review is issued.	(3) L'agent des loyers peut proroger le délai prévu pour la demande d'audience par une partie, à tout moment avant la délivrance d'un avis de révision administrative.	Prorogation
Hearing directed	(4) A hearing shall be held in respect of an application if, (a) a party requests a hearing within the time permitted; or (b) the Chief Rent Officer believes a hearing should be held.	(4) Une audience est tenue à l'égard d'une requête si, selon le cas : a) une partie demande une audience dans le délai imparti; b) l'agent principal des loyers croit qu'une audience devrait être tenue.	Tenue d'une audience
Hearing	(5) If a hearing is held, the procedural rules set out in sections 76 to 82 shall apply.	(5) Si une audience est tenue, les règles de procédure énoncées aux articles 76 à 82 s'appliquent.	Audience
Deemed waiver	(6) A party to a proceeding who does not request a hearing as provided in this section shall be deemed to have waived the right to a hearing.	(6) La partie à une instance qui ne demande pas d'audience comme le prévoit le présent article est réputée avoir renoncé au droit à une audience.	Renonciation réputée
Request for pre-hearing conference	<b>60.</b> —(1) A party who requests a hearing may at the same time request that a pre-hearing conference be held.	<b>60</b> (1) La partie qui demande une audience peut demander en même temps la tenue d'une conférence préparatoire à l'audience.	Demande de conférence préparatoire à l'audience
Conference directed	(2) The Chief Rent Officer may direct that a pre-hearing conference be held in respect of an application if a hearing is to be held and the Chief Rent Officer believes the conference should be held.	(2) L'agent principal des loyers peut ordonner la tenue d'une conférence préparatoire à l'audience à l'égard d'une requête si une audience doit être tenue et que l'agent principal des loyers croit que la conférence devrait être tenue.	Tenue d'une conférence
Pre-hearing conference	(3) If a pre-hearing conference is held, the procedural rules set out in sections 69 to 75 shall apply.	(3) Si une conférence préparatoire à l'audience est tenue, les règles de procédure énoncées aux articles 69 à 75 s'appliquent.	Conférence préparatoire à l'audience

Administrative review

**61.** If a hearing is not held, the procedural rules set out in sections 62 to 68 shall apply.

## ADMINISTRATIVE REVIEW

Notice of administrative review

**62.** If there is not to be a hearing, the Chief Rent Officer shall give the parties a written notice of administrative review advising them,

- (a) that the proceeding will be determined by administrative review;
- (b) of the right of any party other than the applicant to make submissions; and
- (c) of the applicant's right to reply.

Submissions

**63.—(1)** Any party to a proceeding to be determined by administrative review, other than the applicant, may present evidence and make submissions.

Idem

(2) The evidence and submissions must be presented and made before the day which is at least twenty-five days after the date the notice of administrative review is issued.

Reply

(3) The applicant may reply to any submissions made any time before the day that is fifteen days after the deadline for making submissions.

Determination and order

**64.** After the periods for submissions and reply have expired, a rent officer shall review the evidence and submissions and make a determination on all matters without a hearing and make an order.

Material to be considered

**65.—(1)** Except as provided in subsection (2) and section 66, if a proceeding is decided by administrative review,

- (a) the only evidence and submissions in support of the application that the rent officer may consider is that filed with the application or given in reply; and
- (b) the only evidence and submissions that a party other than the applicant may present or make is that presented or made under subsection 63 (1).

Further submissions

(2) A rent officer may permit a party to present further evidence or submissions or may direct a party to present further evidence or submissions that the rent officer considers necessary to make a decision.

Idem

(3) If any person presents further evidence or submissions, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.

**61** Si une audience n'est pas tenue, les règles de procédure énoncées aux articles 62 à 68 s'appliquent.

Révision administrative

## RÉVISION ADMINISTRATIVE

**62** S'il ne doit pas y avoir d'audience, l'agent principal des loyers donne aux parties un avis écrit de révision administrative les avisant de ce qui suit :

- a) il sera statué sur l'instance par voie de révision administrative;
- b) une partie autre que le requérant a le droit de présenter des observations;
- c) le requérant a le droit de répondre.

Avis de révision administrative

**63** (1) Si elle n'est pas le requérant, une partie à une instance sur laquelle il sera statué par voie de révision administrative peut présenter des éléments de preuve et des observations.

Observations

(2) Les éléments de preuve et les observations doivent être présentés avant le jour qui tombe au moins vingt-cinq jours après la date de délivrance de l'avis de révision administrative.

Idem

(3) Le requérant peut répondre aux observations présentées à tout moment avant le jour qui tombe quinze jours après la date limite de présentation des observations.

Réponse

**64** Après que les périodes prévues pour les observations et la réponse ont expiré, l'agent des loyers examine les éléments de preuve et les observations, rend une décision sur toutes les questions sans tenir d'audience et rend une ordonnance.

Décision et ordonnance

**65** (1) Sous réserve du paragraphe (2) et de l'article 66, s'il est statué sur une instance par voie de révision administrative :

Pièces admises

- a) les seuls éléments de preuve et observations à l'appui de la requête dont l'agent des loyers peut tenir compte sont ceux déposés avec la requête ou donnés dans une réponse;
- b) les seuls éléments de preuve et observations qu'une partie autre que le requérant peut présenter sont ceux présentés en vertu du paragraphe 63 (1).

(2) L'agent des loyers peut permettre à une partie de présenter d'autres éléments de preuve ou observations ou il peut ordonner à une partie de présenter d'autres éléments de preuve ou observations qu'il estime nécessaires pour rendre une décision.

Autres observations

(3) Si une personne présente d'autres éléments de preuve ou observations, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.

Idem



If further submissions not filed

(4) If an applicant fails to comply with a direction under subsection (2) or section 86, the rent officer may dismiss the application or refuse to consider that part of the application relating to the failure to comply with the direction.

Idem

(5) If a party other than an applicant fails to comply with a direction under subsection (2) or section 86, the rent officer may refuse to take into account the party's submissions and evidence respecting the matter regarding which there was a failure to comply with the direction.

Oral evidence

(6) A rent officer shall make a written record of any oral evidence or submissions given in an administrative review and shall place that record in the file.

Other relevant information

**66.**—(1) The rent officer may consider any relevant information obtained by him or her in addition to the evidence given by the parties, provided that he or she first informs the parties of the additional information and gives them an opportunity to explain or refute it.

Additional powers

(2) The rent officer may,

- (a) conduct an enquiry or inspect documents that he or she considers necessary;
- (b) question any person by telephone or otherwise; and
- (c) cause an employee of the Ministry to do anything set out in clauses (a) and (b).

Idem

(3) The person collecting evidence under subsection (2) shall make a written record of any evidence obtained and shall place that record in the file.

SPPA does not apply

**67.** The *Statutory Powers Procedure Act* does not apply to a determination without a hearing.

Information available

**68.** A Chief Rent Officer shall make available for public inspection any application that is determined by administrative review and the evidence, submissions and order relating to that application, in the same manner that it would be available if the application were determined with a hearing.

#### PRE-HEARING CONFERENCE

Pre-hearing conference

**69.**—(1) If there is to be a pre-hearing conference, the Chief Rent Officer shall notify the parties in writing of the date set for the conference.

(4) Si le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 86, l'agent des loyers peut rejeter la requête ou refuser de tenir compte de la partie de la requête sur laquelle porte le défaut de se conformer à la directive.

Si d'autres observations ne sont pas déposées

Idem

(5) Si une partie autre que le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 86, l'agent des loyers peut refuser de tenir compte des observations et des éléments de preuve que la partie a présentés à l'égard de la question sur laquelle porte le défaut de se conformer à la directive.

Témoignage oral

(6) L'agent des loyers rapporte par écrit tout témoignage oral donné au cours d'une révision administrative, ainsi que toutes observations qui y sont présentées verbalement, et en verse le relevé au dossier.

Autres renseignements pertinents

**66** (1) L'agent des loyers peut tenir compte de tout renseignement pertinent qu'il a obtenu en plus des éléments de preuve présentés par les parties, à condition qu'il informe d'abord les parties des renseignements supplémentaires et qu'il leur donne la possibilité de les expliquer ou de les réfuter.

Pouvoirs supplémentaires

(2) L'agent des loyers peut :

- a) mener une enquête ou examiner des documents selon ce qu'il estime nécessaire;
- b) interroger des personnes par téléphone ou autrement;
- c) faire faire ce qui est énoncé aux alinéas a) et b) par un employé du ministère.

Idem

(3) La personne qui recueille des éléments de preuve en vertu du paragraphe (2) rapporte par écrit les éléments de preuve obtenus et en verse le relevé au dossier.

Procédure

**67** La loi intitulée *Statutory Powers Procedure Act* («*Loi sur l'exercice des compétences légales*») ne s'applique pas à une décision rendue sans la tenue d'une audience.

Renseignements disponibles

**68** L'agent principal des loyers tient à la disposition du public aux fins d'examen toute requête sur laquelle il est statué par voie de révision administrative, ainsi que les éléments de preuve, les observations et l'ordonnance qui se rapportent à cette requête, comme ils le seraient s'il était statué sur la requête à la suite d'une audience.

#### CONFÉRENCE PRÉPARATOIRE À L'AUDIENCE

**69** (1) S'il doit y avoir une conférence préparatoire à l'audience, l'agent principal des loyers avise les parties, par écrit, de la date fixée pour la conférence.

Conférence préparatoire à l'audience

Date	(2) The conference shall be set for a day that is at least fifteen days after the date the notice of pre-hearing conference is issued.	(2) La conférence est prévue pour un jour qui tombe au moins quinze jours après la date de délivrance de l'avis de conférence préparatoire à l'audience.	Date
Idem	(3) The rent officer conducting the pre-hearing conference may direct that any of the following matters be discussed: <ol style="list-style-type: none"> <li>1. Whether the issues to be dealt with at the hearing can be clarified.</li> <li>2. Whether any person ought to be added or removed as a party to the proceeding.</li> <li>3. What rental units are affected by the proceeding.</li> <li>4. Any procedural matter that arises or may arise in connection with the proceeding.</li> </ol>	(3) L'agent des loyers qui tient la conférence préparatoire à l'audience peut ordonner que les questions suivantes y soient discutées : <ol style="list-style-type: none"> <li>1. La question de savoir si les questions en litige à résoudre au cours de l'audience peuvent être clarifiées.</li> <li>2. La question de savoir si quiconque devrait être ajouté ou retiré comme partie à l'instance.</li> <li>3. Quels sont les logements locatifs visés par l'instance.</li> <li>4. Les questions de procédure qui sont ou pourraient être soulevées relativement à l'instance.</li> </ol>	Idem
Evidence to be considered	<b>70.</b> —(1) Except as provided in subsection (2), the only evidence in support of the application that the rent officer may consider is the material filed with the application or given in reply.	<b>70</b> (1) Sous réserve du paragraphe (2), les seuls éléments de preuve à l'appui de la requête dont l'agent des loyers peut tenir compte sont les pièces déposées avec la requête ou données dans une réponse.	Éléments de preuve admis
Additional evidence	(2) Before, during or after a pre-hearing conference, a rent officer may permit a party to file additional evidence or may direct a party to file any additional evidence the rent officer considers necessary.	(2) Avant, pendant ou après la conférence préparatoire à l'audience, l'agent des loyers peut permettre à une partie de déposer des éléments de preuve supplémentaires ou il peut ordonner à une partie de déposer les éléments de preuve supplémentaires qu'il estime nécessaires.	Éléments de preuve supplémentaires
Idem	(3) If a party files additional evidence, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.	(3) Si une partie dépose des éléments de preuve supplémentaires, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.	Idem
Idem	(4) The rent officer may reconvene the conference from time to time, if necessary.	(4) L'agent des loyers peut convoquer de nouveau la conférence au besoin.	Idem
Submissions	<b>71.</b> Any party to the application may make submissions at a pre-hearing conference respecting the matters in issue at the conference.	<b>71</b> Les parties à la requête peuvent présenter, au cours de la conférence préparatoire à l'audience, des observations à l'égard des questions en litige à la conférence.	Observations
Recommendations	<b>72.</b> —(1) The rent officer may make whatever written recommendations he or she considers necessary or advisable arising out of the matters that are considered at the conference.	<b>72</b> (1) L'agent des loyers peut faire par écrit les recommandations qu'il estime nécessaires ou opportunes par suite des questions examinées au cours de la conférence.	Recommandations
Idem	(2) Any recommendations made under subsection (1) shall be placed in the file pertaining to the proceeding.	(2) Les recommandations faites en vertu du paragraphe (1) sont versées au dossier relatif à l'instance.	Idem
Examination of recommendations	(3) Any party to the proceeding is entitled to examine the recommendations and may make submissions in respect of them at the hearing.	(3) Les parties à l'instance ont le droit d'examiner les recommandations et peuvent présenter à l'audience des observations à leur sujet.	Examen des recommandations
Order	<b>73.</b> —(1) The rent officer may make whatever preliminary order he or she considers fair in the circumstances arising out of the	<b>73</b> (1) L'agent des loyers peut rendre toute ordonnance préliminaire qu'il estime juste dans les circonstances qui se dégagent	Ordonnance



matters that are considered at the conference.

Exception

(2) Despite subsection (1), the rent officer shall not make an order clarifying the issues to be dealt with at the hearing.

Idem

(3) The rent officer shall give a copy of any order to the parties to the conference before the hearing and shall give written reasons for it if requested by a party.

Rent officer not to conduct hearing

**74.** The rent officer who conducts the pre-hearing conference shall not conduct the hearing.

SPPA does not apply

**75.** The *Statutory Powers Procedure Act* does not apply to a pre-hearing conference.

#### HEARING

Notice of hearing

**76.**—(1) If there is to be a hearing, the Chief Rent Officer shall notify the parties in writing of the date set for the hearing.

Date

(2) The hearing shall be set for a day that is after the later of,

- (a) forty days after the date the acknowledgment notice is issued; and
- (b) fifteen days after the date the notice of hearing is issued.

SPPA applies

**77.** The *Statutory Powers Procedure Act* applies to all hearings conducted by rent officers under this Act.

Matters to be considered

**78.**—(1) The rent officer conducting the hearing may consider,

- (a) any evidence and submissions given to him or her in respect of the application;
- (b) any evidence and submissions given at the hearing; and
- (c) any other matters he or she considers necessary or advisable to deal with the matter being heard.

Additional powers

(2) During a hearing, a rent officer may question any person by telephone, so long as it is done in such a way that any parties attending the hearing can hear both sides of the conversation.

Idem

(3) A rent officer may view any premises that are the subject of a hearing and may do so before, during or after the hearing but, if the rent officer does so before or after the hearing, he or she shall give the parties an opportunity to view the premises with him or her.

des questions qui sont examinées au cours de la conférence.

(2) Malgré le paragraphe (1), l'agent des loyers ne peut pas rendre d'ordonnance clarifiant les questions en litige à résoudre au cours de l'audience.

(3) L'agent des loyers donne une copie de l'ordonnance aux parties à la conférence avant l'audience et il en donne les motifs par écrit si une partie en fait la demande.

**74** L'agent des loyers qui tient la conférence préparatoire à l'audience ne peut pas tenir l'audience.

**75** La *Loi sur l'exercice des compétences légales* ne s'applique pas à une conférence préparatoire à l'audience.

#### AUDIENCE

**76** (1) S'il doit y avoir une audience, l'agent principal des loyers avise les parties, par écrit, de la date fixée pour l'audience.

(2) L'audience est prévue pour un jour qui tombe après celui des délais suivants qui est postérieur à l'autre :

- a) quarante jours après la date de délivrance de l'avis accusant réception de la requête;
- b) quinze jours après la date de délivrance de l'avis d'audience.

**77** La *Loi sur l'exercice des compétences légales* s'applique à toutes les audiences que tient un agent des loyers en vertu de la présente loi.

**78** (1) L'agent des loyers qui tient l'audience peut tenir compte de ce qui suit :

- a) les éléments de preuve et les observations qu'il reçoit à l'égard de la requête;
- b) les éléments de preuve et observations présentés à l'audience;
- c) les autres questions qu'il estime nécessaires ou utiles pour résoudre la question faisant l'objet de l'audience.

(2) Au cours de l'audience, l'agent des loyers peut interroger des personnes par téléphone, pourvu que l'interrogation soit faite de manière que les parties présentes à l'audience puissent entendre les deux côtés de la conversation.

(3) L'agent des loyers peut voir les lieux qui font l'objet de l'audience avant, pendant ou après celle-ci. Toutefois, s'il le fait avant ou après l'audience, l'agent des loyers donne aux parties la possibilité de voir les lieux avec lui.

Exception

Idem

L'agent des loyers ne tient pas l'audience

Procédure

Avis d'audience

Date

Procédure

Questions admises

Pouvoirs supplémentaires

Idem

Idem	(4) A rent officer may direct an inspector to inspect premises that are the subject of a hearing.	(4) L'agent des loyers peut ordonner à un inspecteur d'inspecter les lieux qui font l'objet de l'audience.	Idem
Idem	(5) A rent officer may authorize an employee or agent of the Ministry to conduct an enquiry or inspect documents that he or she considers necessary and to question any person by telephone or otherwise.	(5) L'agent des loyers peut autoriser un employé ou un représentant du ministère à mener une enquête ou à examiner des documents, selon ce qu'il estime nécessaire, et à interroger des personnes par téléphone ou autrement.	Idem
Idem	(6) A person acting under subsection (4) or (5) shall make a written report of any inspection, enquiry or questioning done and place the report in the file.	(6) La personne qui agit en vertu du paragraphe (4) ou (5) prépare un rapport par écrit sur toute inspection, enquête ou interrogation effectuée et le verse au dossier.	Idem
Submissions	<b>79.</b> Any party to the application may make submissions to the rent officer at a hearing.	<b>79</b> Les parties à une requête peuvent présenter des observations à l'agent des loyers au cours de l'audience.	Observations
Evidence to be considered	<b>80.</b> —(1) Except as provided in subsection (2) and section 82, the only evidence in support of the application that the rent officer may consider is the evidence filed with the application or given in reply.	<b>80</b> (1) Sous réserve du paragraphe (2) et de l'article 82, les seuls éléments de preuve à l'appui de la requête dont l'agent des loyers peut tenir compte sont ceux déposés avec la requête ou donnés dans une réponse.	Éléments de preuve admis
Additional evidence	(2) Before, during or after a hearing, a rent officer may permit a party to present additional evidence or may direct a party to present any additional evidence the rent officer considers necessary to make a decision.	(2) Avant, pendant ou après l'audience, l'agent des loyers peut permettre à une partie de présenter des éléments de preuve supplémentaires ou il peut ordonner à une partie de présenter les éléments de preuve supplémentaires qu'il estime nécessaires pour rendre une décision.	Éléments de preuve supplémentaires
Idem	(3) If a party presents additional evidence, the rent officer shall give the other parties an opportunity to examine it and to explain or refute it.	(3) Si une partie présente des éléments de preuve supplémentaires, l'agent des loyers donne aux autres parties la possibilité de les examiner et de les expliquer ou de les réfuter.	Idem
Idem	(4) The rent officer shall reconvene the hearing from time to time, if necessary.	(4) L'agent des loyers convoque de nouveau l'audience au besoin.	Idem
If additional evidence not presented	(5) If an applicant fails to comply with a direction under subsection (2) or section 86, the rent officer may dismiss the application or refuse to consider that part of the application relating to the failure to comply with the direction.	(5) Si le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 86, l'agent des loyers peut rejeter la requête ou refuser de tenir compte de la partie de la requête sur laquelle porte le défaut de se conformer à la directive.	Si les éléments de preuve supplémentaires ne sont pas présentés
Idem	(6) If a party other than an applicant fails to comply with a direction under subsection (2) or section 86, the rent officer may refuse to consider the party's submissions and evidence respecting the matter regarding which there was a failure to comply with the direction.	(6) Si une partie autre que le requérant ne se conforme pas à une directive prévue au paragraphe (2) ou à l'article 86, l'agent des loyers peut refuser de tenir compte des observations et des éléments de preuve que la partie a présentés à l'égard de la question sur laquelle porte le défaut de se conformer à la directive.	Idem
Rent officer may question parties	<b>81.</b> At the hearing, the rent officer may question the parties who are in attendance and any witnesses with a view to determining the truth concerning the matters in dispute.	<b>81</b> À l'audience, l'agent des loyers peut interroger les parties présentes et les témoins afin d'établir la vérité concernant les questions en litige.	L'agent des loyers peut interroger les parties
Other relevant information	<b>82.</b> The rent officer may consider any relevant information obtained by him or her in addition to the evidence given at the hearing, provided that he or she first informs the parties of the additional information and gives them an opportunity to explain or refute it.	<b>82</b> L'agent des loyers peut tenir compte de tout renseignement pertinent qu'il a obtenu en plus des éléments de preuve présentés à l'audience, à condition qu'il informe d'abord les parties des renseignements sup-	Autres renseignements pertinents



## OTHER MATTERS

Frivolous or vexatious proceeding

**83.** A rent officer may discontinue a proceeding if, in his or her opinion, the matter is trivial, frivolous or vexatious or has not been initiated in good faith.

Applications joined

**84.**—(1) The Chief Rent Officer or a rent officer may direct that two or more applications be joined or heard together if he or she believes it would be fair to determine the issues raised by them together.

Issues severed

(2) If the Chief Rent Officer or a rent officer believes that it would be fair to deal with some of the issues raised by an application separately from others, he or she may so direct and may make separate orders, if necessary.

Real substance

**85.** In making findings on an application, a rent officer shall ascertain the real substance of all transactions and activities relating to a residential complex or a rental unit and the good faith of the participants and in doing so,

- (a) may disregard the outward form of a transaction or the separate corporate existence of participants; and
- (b) may have regard to the pattern of activities relating to the residential complex or the rental unit.

File information

**86.** A rent officer may direct a landlord to file information under section 96, 99 or 100.

## ORDER

Order

**87.**—(1) Upon making findings on an application, the rent officer shall make an order.

Conditions

(2) The rent officer may include in an order whatever conditions he or she considers fair in the circumstances.

Copy to parties

(3) The rent officer shall forthwith give a copy of an order to the parties and shall give written reasons for it if requested by a party.

Order final

(4) An order made by a rent officer is final, binding and not subject to review except by appeal under section 90 and shall take effect and is enforceable according to its terms from the date it is made.

Clerical errors

**88.** If an order contains a clerical error or omission, the rent officer may amend it at any time before the hearing of an appeal of it has been commenced.

plémentaires et qu'il leur donne la possibilité de les expliquer ou de les réfuter.

## AUTRES QUESTIONS

**83** L'agent des loyers peut mettre fin à une instance qui, à son avis, est futile, frivole ou vexatoire, ou n'a pas été introduite de bonne foi.

Instances frivoles ou vexatoires

**84** (1) L'agent principal des loyers ou un agent des loyers peut ordonner que deux requêtes ou plus soient jointes ou entendues ensemble s'il croit qu'il serait juste de résoudre ensemble les questions en litige qui y sont soulevées.

Jonction des requêtes

(2) Si l'agent principal des loyers ou un agent des loyers croit qu'il serait juste de résoudre séparément certaines des questions en litige qui sont soulevées dans une requête, il peut donner une directive à cet effet et rendre des ordonnances distinctes au besoin.

Séparation des questions en litige

**85** Lorsqu'il émet des conclusions au sujet d'une requête, l'agent des loyers établit le fond véritable de toutes les opérations et activités relatives à l'ensemble d'habitation ou au logement locatif, et la bonne foi des participants. Ce faisant, il peut :

Fond véritable

- a) ne pas tenir compte de la forme extérieure d'une opération ou de la personnalité morale distincte des participants;
- b) tenir compte du genre d'activités relatives à l'ensemble d'habitation ou au logement locatif.

**86** L'agent des loyers peut ordonner au locateur de déclarer des renseignements aux termes de l'article 96, 99 ou 100.

Déclaration de renseignements

## ORDONNANCE

**87** (1) Dès qu'il a émis des conclusions au sujet d'une requête, l'agent des loyers rend une ordonnance.

Ordonnance

(2) L'agent des loyers peut assortir l'ordonnance des conditions qu'il estime justes dans les circonstances.

Conditions

(3) L'agent des loyers donne sans délai une copie de l'ordonnance aux parties et en donne aussi les motifs par écrit si une partie en fait la demande.

Copie aux parties

(4) L'ordonnance rendue par l'agent des loyers est définitive et n'est pas susceptible de révision, sauf par voie d'appel interjeté en vertu de l'article 90. Elle prend effet et devient exécutoire selon ses conditions à la date à laquelle elle est rendue.

Ordonnance définitive

**88** Si une ordonnance contient une erreur d'écriture ou une omission, l'agent des loyers peut la modifier à tout moment avant le début de l'audition d'un appel de l'ordonnance.

Erreurs d'écriture

Power to  
reconsider

**89.**—(1) If, within one year of the date of an order, the rent officer who made it believes that a serious error has been made, the rent officer may, on his or her own motion, reconsider the matter and affirm, rescind, amend or replace the order.

Idem

(2) If, within one year of the date of an order, a Chief Rent Officer believes that a serious error was made in it by a former rent officer or a rent officer who is unable, because of illness or incapacity, to reconsider the matter, the Chief Rent Officer may reconsider the matter and affirm, rescind, amend or replace the order.

**89** (1) Si, dans une période d'un an à compter de la date de l'ordonnance, l'agent des loyers qui a rendu celle-ci croit qu'une grave erreur a été commise, il peut, de sa propre initiative, examiner de nouveau la question et confirmer, annuler, modifier ou remplacer l'ordonnance.

Pouvoir  
d'examiner de  
nouveau la  
question

Idem

(2) Si, dans une période d'un an à compter de la date de l'ordonnance, un agent principal des loyers croit qu'une grave erreur a été commise par un ancien agent des loyers ou un agent des loyers qui, en raison d'une maladie ou d'une incapacité, n'est pas en mesure d'examiner de nouveau la question, il peut examiner de nouveau la question et confirmer, annuler, modifier ou remplacer l'ordonnance.

#### APPEAL

Appeal to  
Divisional  
Court

**90.**—(1) Any person affected by an order of a rent officer or the Director may appeal the order to the Divisional Court but only on a question of law.

Director may  
be heard

(2) The Director is entitled to be heard by counsel or otherwise upon the argument on any issue in an appeal.

Power of  
Divisional  
Court on  
appeal

(3) If an appeal is brought under this section, the Divisional Court shall hear and determine the appeal and may,

(a) affirm, rescind, amend or replace the decision or order; or

(b) remit the matter to a rent officer or the Director, as the case may be, with the opinion of the Divisional Court.

Idem

(4) The Divisional Court may also make any other order in relation to the matter that it considers proper and may make any order with respect to costs that it considers proper.

Orders not  
stayed  
pending  
appeal

**91.** An appeal from an order of a rent officer or the Director does not stay the order pending the hearing of the appeal.

#### MISCELLANEOUS

Substantial  
compliance

**92.** Substantial compliance with this Act respecting the contents of forms, notices or documents is sufficient unless a rent officer or other employee of the Ministry with whom it is filed is of the opinion that it would result in unfairness to any person.

Contingency  
fee limited

**93.**—(1) No agent who represents a landlord or a tenant in a proceeding under this Act or who assists a landlord or tenant in a

#### APPEL

**90** (1) Toute personne visée par une ordonnance d'un agent des loyers ou un ordre du directeur peut interjeter appel de l'ordonnance ou de l'ordre auprès de la Cour divisionnaire, mais elle ne peut le faire que sur une question de droit.

Appel auprès  
de la Cour  
divisionnaire

(2) Le directeur a le droit d'être entendu par l'entremise d'un avocat ou autrement au cours du débat portant sur une question en litige dans un appel.

Le directeur  
peut être  
entendu

(3) Si un appel est interjeté en vertu du présent article, la Cour divisionnaire entend et juge l'appel, et peut, selon le cas :

Pouvoirs de  
la Cour divi-  
sionnaire en  
appel

a) confirmer, annuler, modifier ou remplacer la décision, l'ordre ou l'ordonnance;

b) renvoyer l'affaire devant un agent des loyers ou au directeur, selon le cas, avec l'opinion de la Cour divisionnaire.

Idem

(4) La Cour divisionnaire peut également rendre toute autre ordonnance qu'elle estime opportune relativement à l'affaire et peut rendre toute ordonnance à l'égard des dépens qu'elle estime opportune.

**91** L'appel d'une ordonnance d'un agent des loyers ou d'un ordre du directeur ne sursoit pas à l'ordonnance en attendant l'audition de l'appel.

Ordonnances  
non suspen-  
dues

#### DISPOSITIONS DIVERSES

**92** Le fait de se conformer dans l'ensemble à la présente loi à l'égard du contenu des formules, des avis ou des documents est suffisant, à moins que l'agent des loyers ou un autre employé du ministère auprès duquel ceux-ci sont déposés ne soit d'avis qu'il en résulterait une injustice pour quiconque.

Fait de se  
conformer  
dans l'ensem-  
ble

**93** (1) Nul représentant qui agit au nom d'un locateur ou d'un locataire, dans une instance introduite en vertu de la présente loi,

Honoraires  
conditionnels  
limités



matter arising under this Act shall charge or take a fee based on a proportion of any amount which has been or may be recovered, gained or saved, in whole or in part, through the efforts of the agent, where the proportion exceeds the prescribed amount.

Contingency  
agreement  
void

(2) Any agreement which provides for a fee prohibited in subsection (1) is void.

### PART III

#### RENT REGISTRY

Rent registry

**94.** The Registrar shall establish and maintain a rent registry for all residential complexes that contain rental units to which this Act applies.

Transfer of  
registered  
information

**95.** Upon the coming into force of this section, the Registrar shall receive from the Minister and record in the rent registry all information that was recorded in the rent registry under the *Residential Rent Regulation Act, 1986* before the day this section is proclaimed in force.

#### STATEMENTS TO BE FILED

Statement of  
rent informa-  
tion

**96.—(1)** Every landlord of a residential complex containing more than three residential units shall file with the Registrar a statement of rent information in the prescribed form.

When state-  
ment due

(2) The landlord shall file the statement for all rental units in the residential complex that were rented on or before the date of filing and the date of filing shall be,

(a) in the case of a new residential complex all of whose rental units are subject to subsection 3 (5) on the prescribed date, the date on which this Act first applies to a rental unit in the residential complex; and

(b) in all other cases, the prescribed date.

Idem

(3) The Registrar may by notice require a landlord of a residential complex containing one, two or three residential units to file with the Registrar a statement of rent information in the prescribed form on or before the date set out in the notice if,

(a) a tenant of a rental unit in the residential complex requests the Registrar to do so; or

(b) in the circumstances, it would be reasonable to do so.

ou qui aide un locateur ou un locataire dans une affaire qui naît de par la présente loi, ne doit demander ni prendre des honoraires fondés sur une proportion du montant qui a été ou peut être, en tout ou en partie, recouvré, obtenu ou épargné grâce aux efforts du représentant, si la proportion dépasse le montant prescrit.

(2) Est nulle toute entente qui prévoit des honoraires interdits au paragraphe (1).

Entente nulle

### PARTIE III

#### REGISTRE DES LOYERS

Registre des  
loyers

**94** Le registrateur crée et tient un registre des loyers pour tous les ensembles d'habitation qui contiennent des logements locatifs auxquels s'applique la présente loi.

**95** Dès l'entrée en vigueur du présent article, le registrateur reçoit du ministre et inscrit dans le registre des loyers tous les renseignements qui étaient inscrits dans le registre des loyers aux termes de la *Loi de 1986 sur la réglementation des loyers d'habitation* avant le jour où le présent article est proclamé en vigueur.

Transfert des  
renseigne-  
ments inscrits

#### DÉCLARATIONS À DÉPOSER

**96 (1)** Les locateurs d'un ensemble d'habitation comprenant plus de trois unités de logement déposent auprès du registrateur une déclaration de renseignements sur les loyers rédigée selon la formule prescrite.

Déclaration  
de renseigne-  
ments sur les  
loyers

(2) Le locateur dépose la déclaration pour tous les logements locatifs de l'ensemble d'habitation qui étaient loués à la date de dépôt ou avant cette date. La date de dépôt est :

Délai de  
dépôt de la  
déclaration

a) dans le cas d'un nouvel ensemble d'habitation dont tous les logements locatifs sont assujettis au paragraphe 3 (5) à la date prescrite, la date à laquelle la présente loi s'applique pour la première fois à un logement locatif de l'ensemble d'habitation;

b) dans tous les autres cas, la date prescrite.

(3) Le registrateur peut exiger au moyen d'un avis que le locateur d'un ensemble d'habitation comprenant une, deux ou trois unités de logement dépose auprès du registrateur, à la date énoncée dans l'avis ou avant cette date, une déclaration de renseignements sur les loyers rédigée selon la formule prescrite si, selon le cas :

Idem

a) le locataire d'un logement locatif de l'ensemble d'habitation demande au registrateur de le faire;

b) dans les circonstances, il était raisonnable de le faire.

Idem	(4) A landlord who is required to file a statement of rent information shall file additional statements for all rental units that subsequently become rented within six months of the day of the first filing and thereafter every six months until a statement has been filed for all rental units in the residential complex.	(4) Le locateur qui est tenu de déposer une déclaration de renseignements sur les loyers dépose des déclarations supplémentaires pour tous les logements locatifs qui sont loués dans les six mois qui suivent le jour du premier dépôt et, par la suite, tous les six mois jusqu'à ce qu'une déclaration ait été déposée pour tous les logements locatifs de l'ensemble d'habitation.	Idem
Idem	(5) The landlord may file the statement before the date required under this section.	(5) Le locateur peut déposer la déclaration avant la date prévue au présent article.	Idem
Landlord may file	(6) A landlord of a residential complex may file a statement of rent information even if it is not required under this section.	(6) Le locateur d'un ensemble d'habitation peut déposer une déclaration de renseignements sur les loyers même s'il n'y est pas tenu aux termes du présent article.	Le locateur peut déposer une déclaration
Contents of statement	<b>97.—</b> (1) The statement of rent information shall set out the following information: <ol style="list-style-type: none"> <li>1. The name and address of the landlord.</li> <li>2. If the landlord is not ordinarily resident in Ontario, the name and address of the landlord's representative or agent in Ontario.</li> <li>3. The municipal address of every building that forms part of the residential complex.</li> <li>4. The number of bedrooms and the suite number or other means of identification for each rental unit to which this Act applies.</li> <li>5. The initial rent date for each rental unit to which this Act applies and the rent that was charged on that date.</li> <li>6. The date that the rent that was charged on the initial rent date was first charged.</li> <li>7. The number of bedrooms and the suite number or other means of identification for each residential unit to which this Act does not apply, together with the reasons why it does not apply.</li> <li>8. The other prescribed information.</li> </ol>	<b>97</b> (1) La déclaration de renseignements sur les loyers contient les renseignements suivants : <ol style="list-style-type: none"> <li>1. Le nom et l'adresse du locateur.</li> <li>2. Si le locateur ne réside pas ordinairement en Ontario, le nom et l'adresse de son mandataire ou de son représentant en Ontario.</li> <li>3. L'adresse dans la municipalité de chacun des immeubles qui font partie de l'ensemble d'habitation.</li> <li>4. Le nombre de chambres à coucher et le numéro d'appartement ou un autre moyen d'identification de chaque logement locatif auquel s'applique la présente loi.</li> <li>5. La date du loyer initial de chaque logement locatif auquel s'applique la présente loi et le loyer qui était demandé à cette date.</li> <li>6. La date à laquelle le loyer qui était demandé à la date du loyer initial a été demandé pour la première fois.</li> <li>7. Le nombre de chambres à coucher et le numéro d'appartement ou un autre moyen d'identification de chaque unité de logement à laquelle la présente loi ne s'applique pas, ainsi que les raisons pour lesquelles elle ne s'applique pas.</li> <li>8. Les autres renseignements prescrits.</li> </ol>	Contenu de la déclaration
Certificate	(2) The statement of rent information shall contain a certificate signed by the landlord stating that the information contained in the statement, including any attachments to it, is true, correct and complete to the best of the landlord's knowledge and belief.	(2) La déclaration de renseignements sur les loyers contient une attestation signée par le locateur selon laquelle les renseignements contenus dans la déclaration, y compris ses annexes, sont exacts et complets au mieux de sa connaissance et de ce qu'il tient pour véridique.	Attestation
Idem	(3) If the landlord is a corporation, the certificate shall be signed by the president, secretary or other authorized senior officer of it.	(3) Si le locateur est une personne morale, l'attestation est signée par le président, le secrétaire ou un autre cadre dirigeant autorisé de la personne morale.	Idem
Idem	(4) A landlord may give an agent written authorization to sign the certificate and, if	(4) Le locateur peut donner à un représentant une autorisation écrite pour signer	Idem



the landlord does so, the Registrar may require a copy of the authorization to be filed.

Discretion

(5) If a landlord is not able to provide the Registrar with the rent charged on the initial rent date for a rental unit because the initial rent date is not known or because the amount charged on that date is not known, the Registrar may permit the landlord,

- (a) to claim, as the initial rent date, the earliest date since the 1st day of July, 1985 that the rent charged is known; and
- (b) to claim as the rent charged as of the initial rent date, the amount charged as of the date under clause (a).

Deemed filing

**98.** Despite sections 96 and 97, if the information required to be filed under those sections respecting a residential complex was filed under Part V of the *Residential Rent Regulation Act, 1986* before this section comes into force, the landlord of that residential complex shall be deemed to have filed that information under those sections.

Change of information

**99.**—(1) Every landlord of a residential complex shall file with the Registrar a statement of change of information in the prescribed form setting out any changes in the information filed with the Registrar if those changes are necessary to maintain the accuracy and currency of the rent registry.

When due

(2) A statement of change of information shall be filed within thirty days after the change occurred.

Certificate

(3) Subsections 97 (2) to (4) apply with necessary modifications to the filing of a statement of change of information.

Notice to refile information

**100.**—(1) If the Registrar is satisfied that information about a residential complex that a landlord has filed with the Registrar is incorrect or incomplete, the Registrar may by notice require the landlord to file a new or amended statement.

Idem

- (2) The notice shall,
  - (a) inform the landlord that the landlord must file a corrected or completed statement before the day set out in the notice;
  - (b) identify those items in the landlord's statement that the Registrar believes to be incorrect or incomplete; and

l'attestation. Le cas échéant, le registrateur peut exiger qu'une copie de l'autorisation soit déposée.

(5) Si le locateur n'est pas en mesure de déclarer au registrateur le loyer demandé à la date du loyer initial pour un logement locatif parce que cette date n'est pas connue ou parce que le montant demandé à cette date n'est pas connu, le registrateur peut permettre au locateur :

- a) d'une part, de déclarer comme date du loyer initial la première date, depuis le 1<sup>er</sup> juillet 1985, à laquelle le loyer demandé est connu;
- b) d'autre part, de déclarer comme loyer demandé à la date du loyer initial le montant demandé à la date visée à l'alinéa a).

Appréciation discrétionnaire

**98** Malgré les articles 96 et 97, si les renseignements qui doivent être déclarés aux termes de ces articles à l'égard d'un ensemble d'habitation ont été déclarés aux termes de la partie V de la *Loi de 1986 sur la réglementation des loyers d'habitation* avant que le présent article n'entre en vigueur, le locateur de cet ensemble d'habitation est réputé avoir déclaré ces renseignements aux termes de ces articles.

Dépôt réputé

**99** (1) Les locateurs d'un ensemble d'habitation déposent auprès du registrateur une déclaration modifiant les renseignements sur les loyers, rédigée selon la formule prescrite, qui contient les modifications à apporter aux renseignements déclarés au registrateur si ces modifications sont nécessaires pour que le registre des loyers reste exact et à jour.

Modification des renseignements

(2) La déclaration modifiant les renseignements sur les loyers est déposée dans les trente jours après que le changement s'est produit.

Délai

(3) Les paragraphes 97 (2) à (4) s'appliquent, avec les adaptations nécessaires, au dépôt d'une déclaration modifiant les renseignements sur les loyers.

Attestation

**100** (1) Si le registrateur est convaincu que des renseignements que le locateur a déclarés au registrateur sur un ensemble d'habitation sont inexacts ou incomplets, le registrateur peut exiger, au moyen d'un avis, que le locateur dépose une nouvelle déclaration ou une déclaration modifiée.

Avis pour que soit déposée une nouvelle déclaration

(2) L'avis :

Idem

- a) informe le locateur qu'il doit déposer une déclaration corrigée ou complétée avant le jour énoncé dans l'avis;
- b) précise les renseignements dans la déclaration du locateur que le registrateur estime inexacts ou incomplets;

- (c) inform the landlord of the landlord's right to apply under section 33 for an order verifying that the information is correct and complete.

Acceptance  
refused

(3) If the landlord does not comply with a notice under this section, the Registrar may refuse to accept the statement to which the notice relates for filing.

Certificate

(4) Subsections 97 (2) to (4) apply with necessary modifications to the filing of a new or amended statement.

New land-  
lord

**101.** If, when a person becomes the new landlord of a residential complex, the time for filing a statement under section 96, 99 or 100 has expired, the new landlord shall file the statement within thirty days of becoming landlord.

#### CALCULATION OF MAXIMUM RENT

Maximum  
rent

**102.**—(1) After accepting a statement of rent information and within the prescribed time, the Registrar shall,

- (a) calculate for each rental unit to which this Act applies and for which information was filed, the maximum rent as of the initial rent date and the date on which that maximum rent took effect or takes effect; and
- (b) calculate for each such rental unit the maximum rent on the date of the calculation and the date on which that maximum rent took effect.

Idem

(2) The Registrar shall make the calculations under subsection (1) for a rental unit in accordance with the prescribed rules after reviewing the information filed under this Part or recorded under section 95, any orders or notices of carry forward made under this Act, any orders made under *The Residential Premises Rent Review Act, 1975 (2nd Session)* or the *Residential Tenancies Act* and any orders or notices under the *Residential Rent Regulation Act, 1986* that affect that rental unit.

Separate  
charges

(3) Subsections 44 (1) and (2) apply with necessary modifications to the Registrar's calculation of separate charges under this section.

Notice to  
landlord

**103.**—(1) After making the calculations under section 102 and within the prescribed time, the Registrar shall give to the landlord

- c) informe le locateur qu'il a le droit de présenter une requête en vertu de l'article 33 en vue d'obtenir une ordonnance attestant que les renseignements sont exacts et complets.

(3) Si le locateur ne se conforme pas à l'avis prévu au présent article, le registrateur peut refuser la déclaration à laquelle se rapporte l'avis aux fins de dépôt.

(4) Les paragraphes 97 (2) à (4) s'appliquent, avec les adaptations nécessaires, au dépôt d'une nouvelle déclaration ou d'une déclaration modifiée.

**101** Si, lorsqu'une personne devient le nouveau locateur d'un ensemble d'habitation, le délai de dépôt d'une déclaration prévue à l'article 96, 99 ou 100 a expiré, le nouveau locateur dépose la déclaration dans les trente jours qui suivent le jour où il devient le locateur.

#### CALCUL DU LOYER MAXIMAL

**102** (1) Après avoir accepté une déclaration de renseignements sur les loyers mais dans le délai prescrit, le registrateur :

- a) d'une part, calcule, pour chacun des logements locatifs auxquels s'applique la présente loi et pour lesquels des renseignements ont été déclarés, le loyer maximal à la date du loyer initial et la date à laquelle ce loyer maximal a pris ou prend effet;
- b) d'autre part, calcule pour chacun de ces logements locatifs le loyer maximal à la date du calcul et la date à laquelle ce loyer maximal a pris effet.

(2) Le registrateur effectue les calculs prévus au paragraphe (1) pour un logement locatif conformément aux règles prescrites après avoir examiné les renseignements déclarés aux termes de la présente partie ou inscrits aux termes de l'article 95, les ordres ou les avis de report donnés et les ordonnances rendues en vertu de la présente loi, les ordonnances rendues en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* ou de la loi intitulée *Residential Tenancies Act* et les arrêtés pris, les ordonnances rendues et les ordres et les avis donnés en vertu de la *Loi de 1986 sur la réglementation des loyers d'habitation*, qui touchent ce logement locatif.

(3) Les paragraphes 44 (1) et (2) s'appliquent avec les adaptations nécessaires au calcul par le registrateur des charges distinctes aux termes du présent article.

**103** (1) Après avoir effectué les calculs prévus à l'article 102 mais dans le délai prescrit, le registrateur donne au locateur qui a

Déclaration  
refusée

Attestation

Nouveau  
locateur

Loyer maxi-  
mal

Idem

Charges dis-  
tinctes

Avis au loca-  
teur



who has filed a statement a notice of rent information setting out,

- (a) the information filed and accepted for all rental units for which the statement was filed;
- (b) the calculations made under section 102 for all rental units for which the statement was filed;
- (c) the landlord's right under section 33 to apply to change or add to any of that information; and
- (d) the effect of the notice, as set out in subsection (4).

Notice to  
tenant

(2) Within the prescribed time, the Registrar shall give to the tenant of every rental unit for which the statement was filed a notice of rent information setting out,

- (a) the information filed and accepted for the tenant's rental unit;
- (b) the calculations made under section 102 for the tenant's rental unit;
- (c) the tenant's right under section 33 to apply to change or add to any of that information; and
- (d) the effect of the notice, as set out in subsection (4).

Exception

(3) The Registrar is not required to give a landlord or tenant a notice of rent information under subsection (1) or (2) in the prescribed circumstances, despite those subsections.

Calculations  
deemed  
correct

(4) If, within six months of the date the Registrar issues a notice of rent information in respect of a rental unit, no application is made to correct or add to the information in it or in which the maximum rent for that rental unit will be determined, the calculations made under section 102 shall be deemed to have the same effect as an order.

Transitional

(5) This section applies with necessary modifications to a notice under section 60 of the *Residential Rent Regulation Act, 1986* issued before the day this section is proclaimed in force if no application or Minister's motion has been made under section 61 of that Act before that day, but the time for making an application before the deeming under subsection (4) occurs shall be the time provided by section 59 of the *Residential*

déposé une déclaration un avis de renseignements sur les loyers, énonçant ce qui suit :

- a) les renseignements déclarés et acceptés pour tous les logements locatifs au sujet desquels la déclaration a été déposée;
- b) les calculs effectués en vertu de l'article 102 pour tous les logements locatifs au sujet desquels la déclaration a été déposée;
- c) le droit du locateur de présenter une requête en vertu de l'article 33 pour faire apporter des modifications ou des ajouts à ces renseignements;
- d) l'effet de l'avis, tel qu'il est énoncé au paragraphe (4).

(2) Dans le délai prescrit, le registrateur donne au locataire de chaque logement locatif au sujet duquel la déclaration a été déposée, un avis de renseignements sur les loyers, énonçant ce qui suit :

Avis au loca-  
taire

- a) les renseignements déclarés et acceptés pour le logement locatif du locataire;
- b) les calculs effectués en vertu de l'article 102 pour le logement locatif du locataire;
- c) le droit du locataire de présenter une requête en vertu de l'article 33 pour faire apporter des modifications ou des ajouts à ces renseignements;
- d) l'effet de l'avis, tel qu'il est énoncé au paragraphe (4).

(3) Malgré les paragraphes (1) et (2), le registrateur n'est pas tenu de donner au locateur ou au locataire un avis de renseignements sur les loyers aux termes de l'un ou l'autre de ces paragraphes dans les circonstances prescrites.

Exception

(4) Si, dans les six mois qui suivent la date à laquelle le registrateur délivre un avis de renseignements sur les loyers à l'égard d'un logement locatif, aucune requête n'est présentée pour faire apporter des modifications ou des ajouts aux renseignements que contient l'avis ou dans lequel le loyer maximal de ce logement locatif est déterminé, les calculs effectués aux termes de l'article 102 sont réputés avoir le même effet qu'une ordonnance.

Calculs répu-  
tés exacts

(5) Le présent article s'applique avec les adaptations nécessaires à un avis prévu à l'article 60 de la *Loi de 1986 sur la réglementation des loyers d'habitation* qui est donné avant le jour où le présent article est proclamé en vigueur s'il n'y a eu aucune initiative de prise par le ministre ni aucune demande de présentée en vertu de l'article 61 de cette loi avant ce jour. Toutefois, le délai imparti pour présenter une requête avant que

Disposition  
transitoire



*Rent Regulation Act, 1986* and not six months.

l'avis soit réputé avoir le même effet qu'une ordonnance aux termes du paragraphe (4) est le délai prévu à l'article 59 de la *Loi de 1986 sur la réglementation des loyers d'habitation* et non six mois.

#### INFORMATION RECORDED IN REGISTRY

Information  
recorded

**104.**—(1) The Registrar shall record in the rent registry,

- (a) the information filed and accepted under this Part;
- (b) the calculations made under section 102;
- (c) an order made under Part I;
- (d) the most recent order made under *The Residential Premises Rent Review Act, 1975, (2nd Session)* or the *Residential Tenancies Act* or any order made under the *Residential Rent Regulation Act, 1986*;
- (e) a guideline increase permitted to be taken under Part I;
- (f) a statutory increase that was permitted under *The Residential Premises Rent Review Act, 1975, (2nd Session)*, Part XI of the *Residential Tenancies Act* or Part VI of the *Residential Rent Regulation Act, 1986*;
- (g) any decrease in maximum rent under section 105;
- (h) the current maximum rent and the date on which it takes effect, as calculated by the Registrar from the information recorded under clauses (a) to (g); and
- (i) any other information necessary to maintain the accuracy and currency of the rent registry.

Clerical  
errors

(2) If the Registrar is satisfied that any information recorded in the rent registry is incorrect due to a clerical error or omission, the Registrar may amend the rent registry accordingly.

Idem

(3) Upon amending the rent registry under subsection (2), the Registrar shall notify the affected parties of any amended information.

Deemed  
maximum  
rent

(4) The current maximum rent recorded in the rent registry for a given date, if any, is deemed to be the maximum rent for the rental unit as of that date.

#### RENSEIGNEMENTS INSCRITS DANS LE REGISTRE

**104** (1) Le registrateur inscrit dans le registre des loyers les renseignements suivants :

Renseigne-  
ments inscrits

- a) les renseignements déclarés et acceptés aux termes de la présente partie;
- b) les calculs effectués en vertu de l'article 102;
- c) l'ordre donné ou l'ordonnance rendue en vertu de la partie I;
- d) la plus récente ordonnance rendue en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)* ou de la loi intitulée *Residential Tenancies Act* ou tout arrêté pris, tout ordre donné ou toute ordonnance rendue en vertu de la *Loi de 1986 sur la réglementation des loyers d'habitation*;
- e) l'augmentation légale qui peut être perçue en vertu de la partie I;
- f) l'augmentation légale qui était permise en vertu de la loi intitulée *The Residential Premises Rent Review Act, 1975 (2nd Session)*, de la partie XI de la loi intitulée *Residential Tenancies Act* ou de la partie VI de la *Loi de 1986 sur la réglementation des loyers d'habitation*;
- g) toute réduction du loyer maximal visée à l'article 105;
- h) le loyer maximal en vigueur, tel que le registrateur l'a calculé d'après les renseignements inscrits aux termes des alinéas a) à g), et la date à laquelle il prend effet;
- i) tout autre renseignement qui est nécessaire pour que le registre des loyers reste exact et à jour.

(2) S'il est convaincu que des renseignements inscrits dans le registre des loyers sont inexacts en raison d'une erreur d'écriture ou d'une omission, le registrateur peut modifier le registre des loyers en conséquence.

Erreurs  
d'écriture

(3) Lorsqu'il modifie le registre des loyers aux termes du paragraphe (2), le registrateur avise les parties concernées de tout renseignement modifié.

Idem

(4) Le loyer maximal en vigueur qui est inscrit au registre des loyers pour une date donnée, le cas échéant, est réputé le loyer maximal du logement locatif à cette date.

Loyer maxi-  
mal réputé

Idem

(5) If the rent referred to in subsection (4) is not set out in an order, the deeming in subsection (4) may be rebutted in any application under this Act in which maximum rent is determined.

## MISCELLANEOUS

Lower  
assessment

**105.**—(1) The Registrar may decrease the maximum rent in accordance with the prescribed rules and record the decrease in the maximum rent in the registry if,

- (a) a reassessment under the *Assessment Act* in a municipality results in a decrease in the assessed value of a residential complex or a rental unit in it;
- (b) the Council of the municipality by resolution filed with the Registrar requests a decrease in the maximum rent in the affected rental units; and
- (c) the residential complex contains the prescribed number of residential units.

Idem

(2) The Registrar shall calculate the decrease in maximum rent requested for each affected rental unit in accordance with the prescribed rules and notify the Council of the results of those calculations.

Notice

(3) The Council shall give notice of a decrease in maximum rent under this section to the landlord of the residential complex affected by the decrease and to the tenants of any affected rental units.

Idem

- (4) The notice shall set out,
  - (a) particulars of the decrease in maximum rent and the reasons for it; and
  - (b) the person's right under section 33 to apply to dispute the accuracy of the decrease in maximum rent or, if the change in assessment has been appealed, to change the amount of the decrease of the maximum rent.

Information

**106.**—(1) The Registrar shall provide a person with information that is recorded in the rent registry respecting a rental unit if the person requests that information in the prescribed manner.

Idem

(2) The Registrar may provide a person with information that is recorded in the rent registry respecting a rental unit if he or she believes it is appropriate to do so.

(5) Si le loyer mentionné au paragraphe (4) n'est pas énoncé dans une ordonnance, la présomption visée au paragraphe (4) est réfutable dans une instance introduite en vertu de la présente loi et dans laquelle est fixé le loyer maximal.

Idem

## DISPOSITIONS DIVERSES.

**105** (1) Le registrateur peut réduire le loyer maximal conformément aux règles prescrites et inscrire la réduction dans le registre si les conditions suivantes sont réunies :

Évaluation  
foncière inférieure

- a) une nouvelle évaluation foncière effectuée en vertu de la loi intitulée *Assessment Act* («*Loi sur l'évaluation foncière*») dans une municipalité a pour résultat une réduction de la valeur, au rôle d'évaluation foncière, de l'ensemble d'habitation ou d'un logement locatif qui s'y trouve;
- b) le conseil de la municipalité demande, par voie de résolution déposée auprès du registrateur, une réduction du loyer maximal des logements locatifs touchés;
- c) l'ensemble d'habitation contient le nombre prescrit d'unités de logement.

(2) Le registrateur calcule la réduction du loyer maximal demandée pour chaque logement locatif touché conformément aux règles prescrites et avise le conseil des résultats de ces calculs.

Idem

(3) Le conseil donne un avis de la réduction du loyer maximal visée au présent article au locateur de l'ensemble d'habitation touché par la réduction et aux locataires des logements locatifs touchés.

Avis

(4) L'avis énonce ce qui suit :

Idem

- a) des précisions concernant la réduction du loyer maximal et les motifs de la réduction;
- b) le droit de la personne de présenter une requête en vertu de l'article 33 pour contester l'exactitude de la réduction du loyer maximal ou, si le changement apporté à l'évaluation foncière fait l'objet d'un appel, pour faire modifier le montant de la réduction du loyer maximal.

**106** (1) Le registrateur fournit à une personne des renseignements inscrits dans le registre des loyers à l'égard d'un logement locatif si elle en fait la demande de la manière prescrite.

Renseignements

(2) Le registrateur peut fournir à une personne des renseignements inscrits dans le registre des loyers à l'égard d'un logement locatif s'il le juge approprié.

Idem



Limit on information	(3) The Registrar may limit the information provided in accordance with the prescribed rules.	(3) Le registrateur peut limiter les renseignements fournis conformément aux règles prescrites.	Renseignements limités
Personal information	(4) The Registrar may provide the landlord's name and address under this section.	(4) Le registrateur peut fournir le nom et l'adresse du locateur en vertu du présent article.	Renseignements personnels
Form of information	(5) The Registrar may provide the information on paper or in electronic, photographic or other form.	(5) Le registrateur peut fournir les renseignements sur papier, sur support électronique ou photographique ou sur un support d'une autre forme.	Support de l'information
Fees	(6) The Registrar may charge the prescribed fees for providing the information.	(6) Le registrateur peut demander les droits prescrits pour fournir les renseignements.	Droits

## PART IV

## GENERAL

**Record** **107.** In this Part, "record" includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the document is on paper or is in electronic, photographic or other form.

**Administration** **108.**—(1) The Minister is responsible for the administration of this Act.

**Delegation** (2) The Minister may in writing delegate any power or duty granted to or vested in the Minister under this Act to any officer or employee of the Ministry, subject to the conditions set out in the delegation.

**Duties of Minister** **109.** The Minister shall,

(a) where the circumstances warrant, commence or cause to be commenced proceedings in respect of an alleged failure to comply with this Act or an order made under it; and

(b) take an active role in ensuring, by any suitable method, including the making of grants, that landlords and tenants are aware of the benefits and obligations under this Act.

**Director** **110.**—(1) The Minister shall appoint an employee of the Ministry to be the Director of Rent Control.

**Delegation** (2) The Director may in writing delegate any power or duty granted to or vested in the Director under this Act to any employee or agent of the Ministry, subject to the conditions set out in the delegation.

**Duties of Director** (3) In addition to the other duties given to the Director under this Act, the Director shall,

(a) investigate cases of alleged failure to comply with this Act or orders made under it;

## PARTIE IV

## DISPOSITIONS GÉNÉRALES

**Dossier** **107** Dans la présente partie, «dossier» s'entend notamment d'un livre de comptes, d'un carnet de banque, d'une pièce comptable, d'un reçu, de la correspondance et de tout autre document, que le document soit sur papier, sur support électronique ou photographique ou sous une autre forme.

**Application de la Loi** **108** (1) Le ministre est chargé de l'application de la présente loi.

**Délégation** (2) Le ministre peut déléguer par écrit, à tout fonctionnaire ou employé du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

**Fonctions du ministre** **109** Le ministre :

a) lorsque les circonstances le justifient, introduit ou fait introduire des instances à l'égard d'un prétendu défaut de se conformer à la présente loi, ou à un ordre donné ou une ordonnance rendue en vertu de celle-ci;

b) prend des mesures positives pour veiller, par n'importe quel moyen approprié, dont l'octroi de subventions, à ce que les locateurs et les locataires connaissent les avantages et les obligations prévus par la présente loi.

**Directeur** **110** (1) Le ministre nomme un employé du ministère au poste de directeur du contrôle des loyers.

**Délégation** (2) Le directeur peut déléguer par écrit, à tout employé ou représentant du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

**Fonctions du directeur** (3) Outre les autres fonctions qui lui sont conférées par la présente loi, le directeur :

a) fait enquête sur les cas de prétendus défauts de se conformer à la présente loi ou aux ordres donnés ou ordonnances rendues en vertu de celle-ci;



(b) monitor compliance with this Act; and

(c) ensure that the prescribed maintenance standards are being complied with.

Exclusive jurisdiction

**111.**—(1) The Director has exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon the Director.

Rules and policies

(2) The Director shall observe the prescribed procedural and interpretative rules and policies in interpreting this Act and exercising a power or discretion conferred by it.

Inspectors

**112.**—(1) The Director may appoint inspectors for the purposes of this Act.

Certificate of appointment

(2) The Director shall issue a certificate of appointment bearing his or her signature or a facsimile of it to every inspector.

Production of certificate

(3) An inspector who is exercising a power of entry shall produce his or her certificate of appointment.

Duties of inspectors

**113.**—(1) An inspector shall carry out the duties assigned to him or her by the Director.

Power to enter

(2) An inspector may exercise the power of entry set out in subsection (3) in order to inspect premises in the case of an alleged failure to comply with this Act or an order made under it or to inspect premises to determine whether a landlord has complied with a prescribed maintenance standard, if reasonable prior notice of the entry is given and the entry is executed between the hours of 7 a.m. and 9 p.m.

Idem

(3) An inspector exercising a power of entry may,

- (a) enter any place;
- (b) require the production of and inspect any records or other things that may be relevant to the inspection;
- (c) inquire into any matters that may be relevant to the inspection; and
- (d) take any photographs that may be relevant to the inspection.

Power to remove things

(4) Upon giving a receipt for them, an inspector may remove from a place records or other things that may afford evidence that the landlord has not complied with this Act, an order under this Act or a prescribed maintenance standard,

b) s'assure que la présente loi est observée;

c) veille à ce que les normes d'entretien prescrites soient observées.

**111** (1) Le directeur a compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation lui est conféré.

(2) Le directeur observe les règles et politiques de procédure et d'interprétation prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

**112** (1) Le directeur peut nommer des inspecteurs pour l'application de la présente loi.

(2) Le directeur délivre à chaque inspecteur une attestation de nomination portant sa signature ou un fac-similé de celle-ci.

(3) L'inspecteur qui exerce le pouvoir de pénétrer produit son attestation de nomination.

**113** (1) L'inspecteur exerce les fonctions que lui assigne le directeur.

(2) L'inspecteur peut exercer le pouvoir de pénétrer visé au paragraphe (3) en vue d'inspecter les lieux dans un cas de prétendu défaut de se conformer à la présente loi ou à un ordre donné ou une ordonnance rendue en vertu de celle-ci, ou en vue d'inspecter les lieux pour déterminer si le locateur a observé une norme d'entretien prescrite, si un avis préalable à l'égard de l'entrée est donné dans un délai raisonnable et que l'entrée a lieu entre 7 h et 21 h.

(3) L'inspecteur qui exerce le pouvoir de pénétrer peut faire ce qui suit :

- a) pénétrer dans un endroit;
- b) exiger la production des dossiers ou autres choses qui peuvent se rapporter à l'inspection, et examiner ceux-ci;
- c) enquêter sur les questions qui peuvent se rapporter à l'inspection;
- d) prendre les photographies qui peuvent se rapporter à l'inspection.

(4) Après avoir donné un récépissé à cet effet, l'inspecteur peut enlever d'un endroit des dossiers ou d'autres choses qui peuvent fournir une preuve que le locateur ne s'est pas conformé à la présente loi ou à un ordre donné ou une ordonnance rendue en vertu de la présente loi, ou n'a pas observé une norme d'entretien prescrite :

Compétence exclusive

Règles et politiques

Inspecteurs

Attestation de nomination

Production de l'attestation

Fonctions des inspecteurs

Pouvoir de pénétrer

Idem

Pouvoir d'enlever des choses

	<p>(a) to make copies of or extracts from them; or</p> <p>(b) to hold them as evidence.</p>	<p>a) soit pour en tirer des copies ou des extraits;</p> <p>b) soit pour les conserver comme preuve.</p>	
Return	(5) An inspector shall promptly return any records or other things he or she has removed unless they are being held as evidence and copies of them cannot be made.	(5) L'inspecteur rend promptement les dossiers ou les autres choses qu'il a enlevés, à moins qu'ils ne soient conservés comme preuve et qu'il ne soit impossible d'en tirer des copies.	Remise
Expert assistance	(6) An inspector may call upon any expert he or she considers necessary to assist in the inspection.	(6) L'inspecteur peut faire appel aux experts qu'il estime nécessaires pour l'aider à faire l'inspection.	Aide d'experts
Entry to dwellings	(7) A person shall not exercise a power of entry to enter a place that is being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 114.	(7) Une personne ne doit pas exercer le pouvoir de pénétrer dans un endroit utilisé comme habitation sans le consentement de l'occupant si ce n'est en vertu d'un mandat de perquisition décerné en vertu de l'article 114.	Accès à des habitations
Idem	(8) A consent to enter premises under subsection (7) is not valid unless before obtaining it the inspector informs the occupier that he or she may refuse entry and that without the occupier's consent the inspector is not permitted to enter the premises without the authority of a search warrant.	(8) Le consentement à pénétrer dans des lieux visé au paragraphe (7) n'est pas valide à moins que l'inspecteur, avant de l'obtenir, n'informe l'occupant qu'il peut refuser l'entrée et que, sans le consentement de l'occupant, il n'est pas permis à l'inspecteur de pénétrer dans les lieux sans mandat de perquisition.	Idem
Search warrant	<p><b>114.</b>—(1) A justice of the peace may issue a search warrant in the prescribed form authorizing an inspector to enter any place and exercise any of the powers under section 113 if the justice is satisfied by information upon oath that there are reasonable and probable grounds to believe that,</p> <p>(a) an offence under this Act has been committed; and</p> <p>(b) entering and exercising those powers will afford evidence as to the commission of the offence.</p>	<p><b>114</b> (1) Un juge de paix peut décerner un mandat de perquisition, rédigé selon la formule prescrite, autorisant l'inspecteur à pénétrer dans un endroit et à exercer les pouvoirs qui lui sont conférés à l'article 113 si le juge est convaincu, sur la foi d'une dénonciation faite sous serment, qu'il existe des motifs raisonnables et probables de croire que :</p> <p>a) d'une part, une infraction à la présente loi a été commise;</p> <p>b) d'autre part, le fait de pénétrer et d'exercer ces pouvoirs permettra de fournir une preuve de la perpétration de l'infraction.</p>	Mandat de perquisition
Return	(2) The inspector shall promptly return any records or other things he or she has removed unless they are being held as evidence and copies of them cannot be made.	(2) L'inspecteur rend promptement les dossiers ou les autres choses qu'il a enlevés, à moins qu'ils ne soient conservés comme preuve et qu'il ne soit impossible d'en tirer des copies.	Remise
Additional authority	(3) A search warrant authorizes the inspector to call upon any expert he or she considers necessary to assist in executing it and to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.	(3) Le mandat de perquisition autorise l'inspecteur à faire appel aux experts qu'il estime nécessaires pour l'aider à exécuter le mandat, et à utiliser les dispositifs ou les systèmes de mise en mémoire, de traitement ou d'extraction des données nécessaires à la production d'un dossier sous une forme lisible.	Autorisation supplémentaire
Execution and expiry	(4) A search warrant shall specify the hours and days during which it may be executed and shall name a date on which it expires, which date shall not be later than thirty days after its issue.	(4) Le mandat de perquisition précise les heures et les jours où il peut être exécuté. Il précise aussi sa date d'expiration, laquelle ne peut pas tomber plus de trente jours après la date à laquelle il est décerné.	Exécution et expiration
Extension of time	(5) A justice of the peace may extend the date on which a search warrant expires for a	(5) Un juge de paix peut reporter d'une période de trente jours au plus la date d'ex-	Prorogation du délai



period of no more than thirty days upon motion by the inspector named in it and may do so before or after it expires.

Time of execution

(6) A search warrant shall be executed between the hours of 7 a.m. and 9 p.m. unless it provides otherwise.

Person to assist with records

(7) A person who is required to produce a record for an inspector shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system, to produce a record in readable form.

Admissibility of copies

**115.** A copy of or extract from a record made by or for an inspector exercising a power under section 113 or 114 is admissible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

Rent officers

**116.—(1)** The Director shall appoint rent officers for the purposes of this Act.

Chief Rent Officers

(2) The Director shall select a rent officer from each region to be the Chief Rent Officer for that region.

Delegation

(3) A Chief Rent Officer may delegate any power or duty granted to or vested in him or her under this Act to any rent officer, subject to the conditions set out in the delegation.

Idem

(4) A Chief Rent Officer may delegate any power or duty granted to or vested in him or her under this Act, other than a statutory power of decision, to an employee or agent of the Ministry, subject to the conditions set out in the delegation.

Exclusive jurisdiction

**117.—(1)** Except where Part I gives jurisdiction to the Director or to the court, rent officers have exclusive jurisdiction to examine into and determine all proceedings under Part I.

Idem

(2) Rent officers have exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon them.

Rules and policies

(3) A rent officer shall observe the prescribed procedural and interpretative rules and policies in interpreting this Act and exercising a power or discretion conferred by it.

Professional assistance

(4) Subject to any conditions the Minister may set, a Chief Rent Officer may engage

piration d'un mandat de perquisition sur motion de l'inspecteur nommé dans le mandat, avant ou après la date d'expiration du mandat.

(6) Le mandat de perquisition est exécuté entre 7 h et 21 h, à moins qu'il ne le prévoit autrement.

(7) La personne qui est tenue de produire un dossier pour un inspecteur fournit, sur demande, l'aide qui est raisonnablement nécessaire. Elle utilise notamment les dispositifs ou les systèmes de mise en mémoire, de traitement ou d'extraction des données nécessaires à la production d'un dossier sous une forme lisible.

**115** La copie ou l'extrait d'un dossier qui a été tiré par l'inspecteur qui exerce un pouvoir en vertu de l'article 113 ou 114, ou qui a été tiré pour lui, est admissible en preuve et fait foi de l'original, en l'absence de preuve contraire, si cette copie ou cet extrait est certifié conforme à l'original par la personne qui l'a fait.

**116 (1)** Le directeur nomme des agents des loyers pour l'application de la présente loi.

(2) Le directeur choisit un agent des loyers de chaque région comme agent principal des loyers de la région.

(3) L'agent principal des loyers peut déléguer à tout agent des loyers les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

(4) L'agent principal des loyers peut déléguer à un employé ou à un représentant du ministère les pouvoirs et les fonctions que lui confère la présente loi, à l'exception d'une compétence légale de décision et sous réserve des conditions énoncées dans l'acte de délégation.

**117 (1)** Sauf lorsque la partie I donne la compétence au directeur ou au tribunal, les agents des loyers ont compétence exclusive pour instruire et juger toutes les instances introduites en vertu de la partie I.

(2) Les agents des loyers ont compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation leur est conféré.

(3) L'agent des loyers observe les règles et politiques de procédure et d'interprétation prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

(4) Sous réserve des conditions que peut fixer le ministre, l'agent principal des loyers

Heures d'exécution

Obligation d'aider

Admissibilité des copies

Agents des loyers

Agents principaux des loyers

Délégation

Idem

Compétence exclusive

Idem

Règles et politiques

Aide professionnelle



persons other than employees of the Ministry to provide professional, technical or other assistance to a rent officer and may establish the duties and terms of the engagement and provide for the payment of the remuneration and expenses of those persons.

Registrar

**118.**—(1) The Director shall appoint a Registrar for the purposes of Part III.

Delegation

(2) The Registrar may in writing delegate any power or duty granted to or vested in the Registrar under this Act to any employee or agent of the Ministry, subject to the conditions set out in the delegation.

Exclusive jurisdiction

**119.**—(1) The Registrar has exclusive jurisdiction respecting any matter or thing in respect of which a power, authority or discretion is conferred upon the Registrar.

Rules and policies

(2) The Registrar shall observe the prescribed procedural and interpretative rules and policies in interpreting this Act and exercising a power or discretion conferred by it.

Prohibition

**120.**—(1) No person shall knowingly hinder, obstruct or interfere with a tenant in the exercise of the right to organize or participate in an organization the purpose of which is to secure and enforce the rights established under this Act or under section 120 of the *Residential Rent Regulation Act, 1986*.

Idem

(2) No person shall knowingly harass a tenant with intent to prevent or discourage the tenant from securing or enforcing rights under this Act.

Proof of filed documents

**121.**—(1) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been filed with or delivered to the Ministry by or on behalf of the person charged with the offence shall be received as evidence that the certificate, statement or document was so filed or delivered.

Proof of making

(2) The production by a person prosecuting a person for an offence under this Act of a certificate, statement or document that appears to have been made or signed by the person charged with the offence or on the person's behalf shall be received as evidence that the certificate, statement or document was so made or signed.

Fees

**122.**—(1) The Director, the Registrar or a Chief Rent Officer may charge and collect

peut engager des personnes autres que des employés du ministère pour fournir une aide professionnelle, technique ou autre à un agent des loyers, et il peut établir les fonctions et les conditions d'emploi de ces personnes et prévoir le versement de la rémunération et des indemnités de celles-ci.

**118** (1) Le directeur nomme un registra-  
teur pour l'application de la partie III.

Registreur

(2) Le registra-  
teur peut déléguer par écrit, à tout employé ou représentant du ministère, les pouvoirs et les fonctions que lui confère la présente loi, sous réserve des conditions énoncées dans l'acte de délégation.

Délégation

**119** (1) Le registra-  
teur a compétence exclusive en ce qui concerne toute question ou chose à l'égard de laquelle un pouvoir, notamment un pouvoir discrétionnaire, ou une autorisation lui est conféré.

Compétence exclusive

(2) Le registra-  
teur observe les règles et politiques de procédure et d'interprétation prescrites lorsqu'il interprète la présente loi et qu'il exerce un pouvoir, notamment un pouvoir discrétionnaire, que lui confère celle-ci.

Règles et politiques

**120** (1) Nul ne doit sciemment gêner, empêcher ou entraver l'exercice, par un locataire, du droit de former une association dont le but est d'obtenir et de faire respecter les droits établis par la présente loi ou par l'article 120 de la *Loi de 1986 sur la réglementation des loyers d'habitation*, ou d'en faire partie.

Interdiction

(2) Nul ne doit sciemment harceler un locataire dans le but de l'empêcher d'obtenir ou de faire respecter des droits en vertu de la présente loi, ou de l'en décourager.

Idem

**121** (1) La production, par une personne qui intente une poursuite contre une autre personne relativement à une infraction à la présente loi, d'une attestation, d'une déclaration ou d'un document qui semble avoir été déposé auprès du ministère ou remis à celui-ci par la personne inculpée ou pour le compte de celle-ci est admissible en preuve comme preuve du fait que l'attestation, la déclaration ou le document a été ainsi déposé ou remis.

Preuve de documents déposés

(2) La production, par une personne qui intente une poursuite contre une autre personne relativement à une infraction à la présente loi, d'une attestation, d'une déclaration ou d'un document qui semble avoir été fait ou signé par la personne inculpée ou pour le compte de celle-ci est admissible en preuve comme preuve du fait que l'attestation, la déclaration ou le document a été ainsi fait ou signé.

Preuve de la signature

**122** (1) Le directeur, le registra-  
teur ou l'agent principal des loyers peut demander et

Droits

the prescribed fees for providing to a person, at his or her request, copies of forms, notices or documents filed with or issued by him or her.

Form of  
copies

(2) The Director, the Registrar or a Chief Rent Officer may provide those copies on paper or in electronic, photographic or other form.

Immunity

**123.**—(1) No proceeding for compensation or damages shall be instituted against any officer or employee of the Ministry or any agent retained by the Ministry for any act done in good faith in the performance or intended performance of a duty or in the execution or intended execution of the person's duty or for any alleged neglect or default in the execution in good faith of the person's duty.

Liability of  
Crown

(2) Despite subsections 5 (2) and (4) of the *Proceedings Against the Crown Act*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

Offences

**124.**—(1) A person is guilty of an offence if the person knowingly,

- (a) furnishes false or misleading information in any application, document, written submission or statement made to the Director, the Registrar, a rent officer or an inspector or in any proceeding under this Act;
- (b) increases or attempts to increase the rent charged for a rental unit in contravention of section 6 or 11;
- (c) charges or attempts to charge rent for a rental unit in an amount greater than that permitted under this Act;
- (d) contravenes section 31 (additional charges prohibited);
- (e) fails to obey a work order under section 37;
- (f) charges or attempts to charge a fee in contravention of subsection 93 (1);
- (g) fails to file a statement of rent information under section 96 within the time required by that section;
- (h) obstructs or interferes or attempts to obstruct or interfere with an inspector exercising a power under section 113 or 114 (right of entry);

percevoir les droits prescrits pour fournir à une personne, à sa demande, des copies de formules, d'avis ou de documents déposés auprès de lui ou délivrés par lui.

Forme des  
copies

(2) Le directeur, le registrateur ou l'agent principal des loyers peut fournir ces copies sur papier, sur support électronique ou photographique ou sous une autre forme.

Immunité

**123** (1) Sont irrecevables les instances en indemnisation ou en dommages-intérêts introduites contre un fonctionnaire ou un employé du ministère ou un représentant engagé par le ministère pour un acte accompli de bonne foi dans l'exercice effectif ou censé tel des fonctions de la personne ou pour une négligence ou un manquement qui lui sont imputés dans l'exercice de bonne foi de ses fonctions.

Responsabi-  
lité de la  
Couronne

(2) Malgré les paragraphes 5 (2) et (4) de la loi intitulée *Proceedings Against the Crown Act* («*Loi sur les instances introduites contre la Couronne*»), le paragraphe (1) ne dégage pas la Couronne de la responsabilité qu'elle serait autrement tenue d'assumer à l'égard d'un délit civil commis par une personne visée au paragraphe (1).

Infractions

**124** (1) Est coupable d'une infraction quiconque, sciemment :

- a) fournit des renseignements faux ou trompeurs dans une demande ou une requête, un document, une observation écrite ou une déclaration présentés au directeur, au registrateur, à un agent des loyers ou à un inspecteur ou dans une instance introduite en vertu de la présente loi;
- b) augmente ou tente d'augmenter le loyer demandé pour un logement locatif contrairement à l'article 6 ou 11;
- c) demande ou tente de demander, pour un logement locatif, un loyer d'un montant supérieur à celui que permet la présente loi;
- d) contrevient à l'article 31 (charges supplémentaires interdites);
- e) omet de se conformer à un ordre d'exécution de travaux visé à l'article 37;
- f) demande ou tente de demander des honoraires qui contreviennent au paragraphe 93 (1);
- g) omet de déposer une déclaration de renseignements sur les loyers aux termes de l'article 96 dans le délai imparti par cet article;
- h) empêche ou entrave ou tente d'empêcher ou d'entraver l'exercice par un inspecteur d'un pouvoir qui lui est



		conféré par l'article 113 ou 114 (droit de pénétrer);	
	(i) refuses to provide any information or to produce any record or other thing required by an inspector exercising a power under section 113 or 114;	i) refuse de fournir des renseignements ou de produire un dossier ou une autre chose qu'un inspecteur demande dans l'exercice d'un pouvoir qui lui est conféré par l'article 113 ou 114;	
	(j) contravenes section 120.	j) contrevient à l'article 120.	
Idem	(2) Every director or officer of a corporation who knowingly concurs in an offence is guilty of an offence.	(2) Chaque administrateur ou dirigeant d'une personne morale qui participe sciemment à la perpétration d'une infraction est coupable d'une infraction.	Idem
Penalty	(3) An individual who is convicted of an offence is liable to a fine of no more than \$5,000.	(3) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$.	Amende
Idem	(4) A person other than an individual who is convicted of an offence is liable to a fine of no more than \$50,000.	(4) La personne autre qu'un particulier qui est reconnue coupable d'une infraction est passible d'une amende d'au plus 50 000 \$.	Idem
Limitation	(5) No proceeding shall be commenced respecting an offence under clause (1) (a) more than two years after the date on which the facts giving rise to the offence came to the attention of the Ministry.	(5) Est irrecevable l'instance à l'égard d'une infraction prévue à l'alinéa (1) a) qui est introduite plus de deux ans après la date à laquelle les faits qui ont donné lieu à l'infraction sont venus à la connaissance du ministère.	Prescription
Idem	(6) No proceeding shall be commenced respecting any other offence under subsection (1) more than two years after the date on which the offence was, or is alleged to have been, committed.	(6) Est irrecevable l'instance à l'égard d'une autre infraction prévue au paragraphe (1) qui est introduite plus de deux ans après la date de la perpétration ou de la perpétration présumée de l'infraction.	Idem
Continuing offence	(7) An offence under clause (1) (g) continues to be an offence until the statement is filed.	(7) Une infraction visée à l'alinéa (1) g) continue d'être une infraction jusqu'à ce que la déclaration soit déposée.	Infraction continue
Regulations	<b>125.</b> —(1) The Lieutenant Governor in Council may make regulations,	<b>125</b> (1) Le lieutenant-gouverneur en conseil peut, par règlement :	Règlements
	1. prescribing the form of a notice for the purpose of clause 3 (5) (b);	1. prescrire la formule de l'avis pour l'application de l'alinéa 3 (5) b);	
	2. prescribing the form of the notice of rent increase;	2. prescrire la formule de l'avis d'augmentation de loyer;	
	3. prescribing the Table setting out the weights and operating cost categories needed to calculate the guideline;	3. prescrire le barème énonçant la pondération et les catégories de frais d'exploitation nécessaires au calcul du taux légal;	
	4. prescribing interest rates on capital expenditures for the purposes of subsection 20 (5);	4. prescrire les taux d'intérêt sur les dépenses en immobilisations pour l'application du paragraphe 20 (5);	
	5. prescribing the useful life of work done or a thing purchased for the purposes of section 20;	5. prescrire, pour l'application de l'article 20, la vie utile de travaux effectués ou d'une chose achetée;	
	6. prescribing rules for increasing or decreasing an amount set out in an advance determination for the purpose of an order under section 21;	6. prescrire les règles pour augmenter ou réduire un montant fixé dans une décision anticipée aux fins d'une ordonnance visée à l'article 21;	
	7. prescribing other matters to be determined for the purposes of clause 29 (2) (d);	7. prescrire d'autres questions à trancher pour l'application de l'alinéa 29 (2) d);	



8. prescribing the form of notice abandoning the amount by which a claim under section 30 or 32 exceeds the monetary jurisdiction of the Small Claims Court;
9. prescribing rules for calculating interest under section 30 or 32;
10. prescribing other matters that may be the subject of an application under section 33;
11. prescribing maintenance standards for the purposes of section 36;
12. prescribing rules for making findings for orders under Part I;
13. prescribing the periods for which findings should be made for an order under Part I;
14. prescribing separate charges which may be equalized immediately for the purposes of section 44;
15. prescribing rules for increasing or decreasing maximum rent for the purposes of section 45;
16. prescribing services, facilities, privileges, accommodations and things for the purposes of paragraph 2 of subsection 45 (1);
17. prescribing the method of determining maximum rent for the purposes of Part I;
18. establishing regions in Ontario for the purposes of this Act;
19. prescribing rules for the computation of time for the purpose of subsection 48 (5);
20. prescribing forms of applications under Part I and material to be furnished in respect of an application;
21. prescribing the form of a cost statement under clause 52 (b);
22. prescribing other material to be filed with an application for the purpose of clause 52 (c);
23. prescribing, for the purpose of section 93, the allowed amount of a contingency fee;
24. prescribing procedural and interpretative rules and policies to be observed by the Director, the Registrar and rent officers in the interpretation of this Act or when exercising any power or discretion conferred under this Act;
8. prescrire la formule de l'avis de renonciation à la partie du montant, dans le cadre d'une requête visée à l'article 30 ou 32, qui dépasse le montant de la compétence d'attribution de la Cour des petites créances;
9. prescrire des règles pour calculer l'intérêt prévu à l'article 30 ou 32;
10. prescrire d'autres questions qui peuvent faire l'objet d'une requête visée à l'article 33;
11. prescrire des normes d'entretien pour l'application de l'article 36;
12. prescrire des règles pour émettre des conclusions pour les ordres et les ordonnances visés à la partie I;
13. prescrire les périodes à l'égard desquelles des conclusions devraient être émises pour un ordre ou une ordonnance visé à la partie I;
14. prescrire des charges distinctes qui peuvent faire l'objet d'une péréquation immédiate pour l'application de l'article 44;
15. prescrire des règles pour augmenter ou réduire le loyer maximal pour l'application de l'article 45;
16. prescrire des services, installations, privilèges, commodités et choses pour l'application de la disposition 2 du paragraphe 45 (1);
17. prescrire la méthode pour déterminer le loyer maximal pour l'application de la partie I;
18. créer des régions en Ontario pour l'application de la présente loi;
19. prescrire des règles de calcul des délais pour l'application du paragraphe 48 (5);
20. prescrire les formules de requêtes présentées en vertu de la partie I et les pièces qui doivent être fournies à l'égard d'une requête;
21. prescrire la formule d'un état des dépenses visé à l'alinéa 52 b);
22. prescrire d'autres pièces qui doivent être déposées avec une requête pour l'application de l'alinéa 52 c);
23. prescrire, pour l'application de l'article 93, le montant permis pour les honoraires conditionnels;
24. prescrire les règles et politiques de procédure et d'interprétation que le directeur, le registrateur et les agents des loyers doivent observer lorsqu'ils interprètent la présente loi ou qu'ils exercent un pouvoir, notamment un

- pouvoir discrétionnaire, que leur confère celle-ci;
25. prescribing, for the purposes of section 96, the form of statement of rent information;
  26. prescribing, for the purposes of subsection 96 (2), the date for filing a statement of rent information;
  27. prescribing, for the purposes of subsection 97 (1), other information that shall be set out in a statement of rent information;
  28. prescribing, for the purposes of section 99, the form of statement of change of information;
  29. prescribing changes of information that are or are not necessary to maintain the accuracy and currency of the rent registry;
  30. prescribing the time before which the Registrar shall make the determinations under section 102 and give notices of rent information under section 103;
  31. prescribing rules for calculating maximum rent under section 102;
  32. prescribing, for the purposes of subsection 103(3), the circumstances under which the Registrar is not required to give a notice of rent information;
  33. prescribing rules the Registrar shall follow for decreasing maximum rent and selecting the date on which a decrease takes effect for the purposes of subsection 105(1) (lower assessment);
  34. prescribing the number of residential units in a residential complex for the purposes of clause 105(1) (c);
  35. prescribing rules the Registrar shall follow to calculate a reduction in maximum rent under subsection 105(2);
  36. prescribing the manner of requesting information from the rent registry;
  37. prescribing rules the Registrar shall follow in limiting information provided under section 106;
  38. prescribing the fees the Registrar may charge for furnishing information under section 106;
  25. prescrire, pour l'application de l'article 96, la formule de la déclaration de renseignements sur les loyers;
  26. prescrire, pour l'application du paragraphe 96 (2), la date de dépôt d'une déclaration de renseignements sur les loyers;
  27. prescrire, pour l'application du paragraphe 97 (1), d'autres renseignements qui doivent être fournis dans une déclaration de renseignements sur les loyers;
  28. prescrire, pour l'application de l'article 99, la formule de la déclaration modifiant les renseignements sur les loyers;
  29. prescrire les modifications qui doivent être apportées aux renseignements pour que le registre des loyers reste exact et à jour, ou celles qui ne sont pas nécessaires à cette fin;
  30. prescrire le délai dans lequel le registrateur doit rendre les décisions aux termes de l'article 102 et donner des avis de renseignements sur les loyers aux termes de l'article 103;
  31. prescrire des règles pour calculer le loyer maximal aux termes de l'article 102;
  32. prescrire, pour l'application du paragraphe 103 (3), les circonstances dans lesquelles le registrateur n'est pas tenu de donner un avis de renseignements sur les loyers;
  33. prescrire des règles que le registrateur doit suivre pour réduire le loyer maximal et fixer la date à laquelle une réduction prend effet, pour l'application du paragraphe 105 (1) (évaluation foncière inférieure);
  34. prescrire le nombre d'unités de logement d'un ensemble d'habitation pour l'application de l'alinéa 105 (1) c);
  35. prescrire des règles que le registrateur doit suivre pour calculer la réduction du loyer maximal aux termes du paragraphe 105 (2);
  36. prescrire la manière de présenter une demande de renseignements qui sont inscrits dans le registre des loyers;
  37. prescrire des règles que le registrateur doit suivre pour limiter les renseignements fournis aux termes de l'article 106;
  38. prescrire les droits que le registrateur peut demander pour fournir des ren-



		seignements aux termes de l'article 106;	
	39. prescribing, for the purposes of section 122, fees for furnishing copies of forms, notices or documents;	39. prescrire, pour l'application de l'article 122, des droits pour fournir des copies de formules, d'avis ou de documents;	
	40. defining any word or expression used in this Act that has not already been expressly defined in this Act;	40. définir les mots ou expressions utilisés dans la présente loi qui n'y ont pas déjà été expressément définis;	
	41. prescribing anything that by this Act may be prescribed.	41. prescrire ce qui peut être prescrit par la présente loi.	
Idem	(2) A regulation under paragraph 26 of subsection (1) may prescribe different dates for different classes of a residential complex and for residential complexes in different geographical areas.	(2) Un règlement pris en application de la disposition 26 du paragraphe (1) peut prescrire des dates différentes pour des catégories différentes d'ensembles d'habitation et pour des ensembles d'habitation situés dans des zones géographiques différentes.	Idem
Idem	(3) A regulation under paragraph 34 of subsection (1) may prescribe a different number of residential units in a residential complex for different municipalities.	(3) Un règlement pris en application de la disposition 34 du paragraphe (1) peut prescrire un nombre différent d'unités de logement d'un ensemble d'habitation pour des municipalités différentes.	Idem
Repeals	<b>126.—(1)</b> The <i>Residential Complexes Financing Costs Restraint Act, 1982</i> , the <i>Residential Complexes Financing Costs Restraint Amendment Act, 1983</i> , the <i>Residential Complexes Financing Costs Restraint Amendment Act, 1984</i> and section 4 of the <i>Residential Tenancies Amendment Act, 1985</i> are repealed.	<b>126 (1)</b> Les lois intitulées <i>Residential Complexes Financing Costs Restraint Act, 1982</i> («Loi de 1982 sur les restrictions relatives au coût du financement des ensembles d'habitation»), <i>Residential Complexes Financing Costs Restraint Amendment Act, 1983</i> et <i>Residential Complexes Financing Costs Restraint Amendment Act, 1984</i> , et l'article 4 de la loi intitulée <i>Residential Tenancies Amendment Act, 1985</i> sont abrogés.	Abrogations
Saving	(2) Despite the repeal of the <i>Residential Complexes Financing Costs Restraint Act, 1982</i> , that Act shall be deemed to be continued in force for the purpose of hearing and making orders in respect of applications made to the Commission under section 126 of the <i>Residential Tenancies Act</i> on or before the day preceding the day on which this section is proclaimed in force if those applications are not finally disposed of by the Commission on or before that day, and to appeals from any such orders.	(2) Malgré l'abrogation de la <i>Loi de 1982 sur les restrictions relatives au coût du financement des ensembles d'habitation</i> , cette loi est réputée demeurer en vigueur afin que soient tenues des audiences et que soient rendues des ordonnances à l'égard des requêtes qui sont présentées à la Commission en vertu de l'article 126 de la loi intitulée <i>Residential Tenancies Act</i> le jour précédant celui où le présent article est proclamé en vigueur ou avant ce jour, si la Commission ne statue pas de façon définitive sur ces requêtes ce jour-là ou avant ce jour, et à l'égard des appels de ces ordonnances.	Disposition d'exception
Repeals	<b>127.—(1)</b> The <i>Residential Rent Regulation Act, 1986</i> and section 41 of the <i>Provincial Penalties Adjustment Act, 1989</i> are repealed.	<b>127 (1)</b> La <i>Loi de 1986 sur la réglementation des loyers d'habitation</i> et l'article 41 de la loi intitulée <i>Provincial Penalties Adjustment Act, 1989</i> sont abrogés.	Abrogations
Saving	(2) Despite the repeal of the <i>Residential Rent Regulation Act, 1986</i> , that Act, except subsections 103(2) and (3), shall be deemed to be continued in force for the purpose only of continuing and finally disposing of the following matters:	(2) Malgré l'abrogation de la <i>Loi de 1986 sur la réglementation des loyers d'habitation</i> , cette loi, à l'exception des paragraphes 103 (2) et (3), est réputée demeurer en vigueur dans le but unique de poursuivre et de régler définitivement les questions suivantes :	Disposition d'exception
	1. An application made under that Act before the day this section is proclaimed in force.	1. Une demande présentée en vertu de cette loi avant le jour où le présent article est proclamé en vigueur.	



2. A landlord's justification filed under section 63 of that Act in response to a tenant's application under section 61 of that Act or in response to a Minister's notice proposing to make an order under subsection 61 (4) of that Act if the tenant's application or the Minister's notice, as the case may be, was made before the day this section is proclaimed in force.
3. A Minister's motion under that Act, commenced by way of notice given under subsection 28 (1) of that Act.
4. An appeal or review of an order made under that Act.
5. A court proceeding to which the Minister or the Rent Review Hearings Board is a party if the proceeding was commenced before the day this section is proclaimed in force.
6. A court proceeding referred to in subsection 13 (5) of that Act.

Transitional

**128.**—(1) Sections 60, 61, 70 to 73, 75 to 110, 114, 115, 117, 118, 120 to 133, clauses 134(1) (a), (b), (f) and (g), subsections 134(2) and (3) and subsection 135(2) of the *Residential Tenancies Act*, as they were on the 31st day of December, 1986, shall be deemed to be continued in force for the purposes only of continuing and finally disposing of the following matters:

1. An application made under the *Residential Tenancies Act* before the 1st day of January, 1987.
2. An appeal of an order made under the *Residential Tenancies Act*.
3. A court proceeding commenced before the 1st day of January, 1987 to which the Residential Tenancy Commission is a party.
4. A court proceeding mentioned in subsection 84 (4) of the *Residential Tenancies Act* commenced before the 1st day of January, 1987.

Election

(2) An application under the *Residential Tenancies Act* made before the 1st day of January, 1987 may, at any time before the hearing of the application has commenced, at the written election of the applicant, be continued and finally disposed of as an application made under the corresponding provisions of the *Residential Rent Regulation Act, 1986*.

Residential  
Tenancy  
Commission

(3) For the purposes only of subsection (1), the Residential Tenancy Commission shall

2. La justification déposée par un locateur aux termes de l'article 63 de cette loi en réponse à une demande présentée par un locataire en vertu de l'article 61 de cette loi, ou en réponse à un avis du ministre proposant de prendre un arrêté en vertu du paragraphe 61 (4) de cette loi, si, selon le cas, la demande du locataire a été présentée ou l'avis du ministre a été donné avant le jour où le présent article est proclamé en vigueur.
3. L'initiative qu'a prise le ministre en vertu de cette loi, entamée par un avis donné aux termes du paragraphe 28 (1) de cette loi.
4. Un appel ou une révision d'un arrêté pris, d'un ordre donné ou d'une ordonnance rendue en vertu de cette loi.
5. Une instance judiciaire à laquelle le ministre ou la Commission de révision des loyers est partie, si l'instance a été introduite avant le jour où le présent article est proclamé en vigueur.
6. Une instance judiciaire visée au paragraphe 13 (5) de cette loi.

**128** (1) Les articles 60, 61, 70 à 73, 75 à 110, 114, 115, 117, 118 et 120 à 133, les alinéas 134(1) (a), (b), (f) et (g), les paragraphes 134(2) et (3) et 135(2) de la loi intitulée *Residential Tenancies Act*, tels qu'ils existaient au 31 décembre 1986, sont réputés demeurer en vigueur dans le but unique de poursuivre et de régler définitivement les questions suivantes :

Disposition  
transitoire

1. Une requête présentée en vertu de la loi intitulée *Residential Tenancies Act* avant le 1<sup>er</sup> janvier 1987.
2. Un appel d'une ordonnance rendue en vertu de la loi intitulée *Residential Tenancies Act*.
3. Une instance judiciaire introduite avant le 1<sup>er</sup> janvier 1987, à laquelle la Commission de location résidentielle est partie.
4. Une instance judiciaire visée au paragraphe 84 (4) de la loi intitulée *Residential Tenancies Act*, introduite avant le 1<sup>er</sup> janvier 1987.

(2) Une requête prévue par la loi intitulée *Residential Tenancies Act* et présentée avant le 1<sup>er</sup> janvier 1987, peut, à tout moment avant le début de l'audition de la requête, être poursuivie et réglée définitivement comme une demande présentée en vertu des dispositions correspondantes de la *Loi de 1986 sur la réglementation des loyers d'habitation*, si le requérant choisit, par écrit, de procéder ainsi.

Choix du  
requérant

(3) Pour l'application du paragraphe (1) seulement, la Commission de location résiden-

Commission  
de location  
résidentielle

continue and has all the powers and jurisdiction conferred on it by the *Residential Tenancies Act*, and for that purpose all appointments of Commissioners and Appeal Commissioners and designations of Commissioners as members of the Board of Commissioners are confirmed and continued until the expiration of the term of appointment or a day to be named by proclamation of the Lieutenant Governor, whichever is earlier.

Single  
Appeal  
Commis-  
sioner

(4) Despite subsection 117(7) of the *Residential Tenancies Act*, as it was on the 31st day of December, 1986, an appeal from an order made under subsection 129(2) of that Act, as it was on that day, may be heard before a single Appeal Commissioner, who need not be a member of the Board of Commissioners.

Commence-  
ment

**129.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**130.** The short title of this Act is the *Rent Control Act, 1991*.

tielle est maintenue et possède tous les pouvoirs et la compétence que lui confère la loi intitulée *Residential Tenancies Act*. À cette fin, toutes les nominations de commissaires et de commissaires aux appels, et toutes les désignations de commissaires à titre de membres du Conseil de la Commission sont confirmées et maintenues jusqu'à l'expiration du mandat ou jusqu'au jour que le lieutenant-gouverneur fixe par proclamation, selon le premier de ces événements.

(4) Malgré le paragraphe 117(7) de la loi intitulée *Residential Tenancies Act*, tel qu'il existait au 31 décembre 1986, un appel d'une ordonnance rendue aux termes du paragraphe 129(2) de cette loi, tel qu'il existait à ce jour, peut être entendu par un seul commissaire aux appels, lequel n'est pas nécessairement membre du Conseil de la Commission.

Commissaire  
aux appels  
unique

**129** La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en  
vigueur

**130** Le titre abrégé de la présente loi est *Loi de 1991 sur le contrôle des loyers*.

Titre abrégé

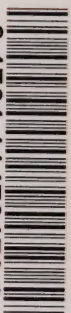












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